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ELIGIBILITY FOR HEALTH CARE SERVICES PROVIDED BY INDIAN HEALTH SERVICE

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

OVERSIGHT HEARING ON ELIGIBILITY FOR HEALTH CARE SERVICES PROVIDED BY THE INDIAN HEALTH SERVICE

JUNE 30, 1988
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ELIGIBILITY FOR HEALTH CARE SERVICES PROVIDED BY INDIAN HEALTH SERVICE

THURSDAY, JUNE 30, 1988

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Sacramento, CA.

The committee met, pursuant to notice, at 1 p.m., at Sacramento Board of Supervisors Council Chambers, 700 H Street, room 1450, Sacramento, CA, Hon. Daniel K. Inouye (chairman of the committee) presiding.

Present: Senator Inouye.

Staff present: Patricia Zell, chief council.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII, CHAIRMAN, SELECT COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. Welcome to this hearing of the Senate Select Committee on Indian Affairs on the issue of eligibility for the health care services provided by the Indian Health Services.

As some of you may be aware, I sponsored an amendment at the request of Senator Cranston to delay implementation of the eligibility regulations that have been promulgated by the Department of Health and Human Services.

I am pleased to tell you that both the House and the Senate have included language in fiscal year 1989 appropriations bill to further delay implementation of the regulations for one more year.

We are here this afternoon to receive your views on what the definition of eligibility should be, and based upon your testimony we will develop legislation that reflects a consensus of tribal views on eligibility.

As some of you have noted, this is my first visit as chairman of the committee to the State of California, and I believe that I am the first chairman of this committee to ever do so.

However, I want to assure you that although this afternoon's hearing is specifically focused on eligibility, this is not the last time that the committee will be here. Later on this year, after going through Alaska, I will return to California. At that time I will meet with tribes in the southern, central, and northern parts of the State because I want to hear what your problems are, and I want to share with the members of my committee your thoughts and what you believe the solutions to those problems should be.

As some of you know, when I assumed the chairmanship of this committee I announced that Indian solutions should be provided for Indian problems. Up until now Washington has been providing

solutions to your problems, and, as you have noted, all too often Washington solutions do not solve your problems. That is why we seek solutions to Indian problems from Indian people in Indian Country.

As some know, I have spent more time in Indian Country these past two years than I have in my State of Hawaii. We consider your problems to be important. We feel that your agenda has been waiting too long, and we expect to do something about it.

So we will be back, and we will spend the time necessary to develop an understanding on the issues that confront you on a day-to-day basis.

In the meantime, we are here to focus upon health and eligibility for health care services.

As all of you know, this afternoon we have over 40 witnesses, so we are going to depart from our customary procedure. In Washington as Chair, I would permit a witness to speak just about as long as he or she wants to, but if we did that we would be here for 3 days, and we can not afford that. So I am asking each witness to limit his or her testimony to 5 minutes, with the assurance that your full text will be made a part of the record.

For those of you who wish to have your statements made part of the record, just let us know. We will keep this record open for another 3 weeks to permit all witnesses to submit addendum or to make corrections or, if you wish, people in the audience or in your tribes, if you wish to submit your own statements, feel free to do so. I can assure you that I, personally, will read every one of them.

With that, I would like to now call upon the first panel, consisting of: Ms. Barbara E. Karshmer of Alexander and Karshmer, Attorneys at Law in Berkeley; Mr. J. Patrick Patencio, Board Chair of Riverside-San Bernardino County Indian Health, Incorporated; Ms. Rose Hatfield, Board Chair, Indian Health Council of Pauma Valley; and Ms. Frances Shaw, Board Chair, Southern Indian Health Council of Lakeside.

Ms. Karshmer.

STATEMENT OF ROSE HATFIELD, BOARD CHAIR, INDIAN HEALTH COUNCIL, INC., PAUMA VALLEY, CA

Ms. HATFIELD. I'm going to start.

Mr. Chairman and members of the committee, thank you for the opportunity to be here today. This is Mr. Patencio, Ms. Shaw, and Ms. Karshmer, our panel. My name is Rose Hatfield, and I am a Lucinia Indian from the La Jolla Indian Reservation located in northern San Diego County.

I am the chairperson of the Board of Directors of the Indian Health Council, a tribally operated health program serving Indians on and near eight Indian reservations in the remote area of northern San Diego County.

Between our three health programs we have ten health facilities and serve nearly 30,000 Indians, covering all of rural Southern California.

I am representing my Board of Directors here today, and on their behalf request that your committee take action to prevent Indian Health Service from implementing its new eligibility regulations.

Although our service population is almost entirely Federally recognized Indians, our board of directors believes that all California Indians should continue to be served because of this country's history of dealing with them, and because they have nowhere else to turn for care.

Our attorney, Barbara Karshmer, will explain the history and the legal battles we fought here in California to obtain health care. We believe that that history has been one of failed Federal promises and neglected responsibility.

In order to save time, I will give our attorney my remaining time to present our views, but first Frances Shaw will make her comments.

[Prepared statement of Ms. Hatfield appears in appendix.]

The CHAIRMAN. Ms. Shaw.

STATEMENT OF FRANCES SHAW, BOARD CHAIR, SOUTHERN INDIAN HEALTH COUNCIL, LAKESIDE, CA

Ms. SHAW. My name is Frances Shaw. I am tribal chairman of Manzanita Indian Reservation, and also CHAIRMAN of the Board for Southern Indian Health Council, which is located in Southern California about 20 miles from San Diego in the eastern part.

We serve seven federally recognized tribes and Indians living on and near those reservations in San Diego County. Even though all of the Indians that we serve are Federally recognized and would be eligible for services, even under the new IHS regulations, we believe that California Indians should continue to receive care from IHS even if they are not Federally recognized.

For this reason, we are here to request that your committee prevent IHS from going forward with their new eligibility regulations.

[Prepared statement of Ms. Shaw appears in appendix.]

The CHAIRMAN. Thank you.

STATEMENT OF J. PATRICK PATENCIO, BOARD CHAIR, RIVERSIDE-SAN BERNARDINO COUNTY INDIAN HEALTH, INC., BANNING, CA

Mr. PATENCIO. Mr. CHAIRMAN and members of the committee, I am Joseph Patrick Patencio. I am a member of the Aloquenti band of Cooli Indians located in Palm Springs, California, and I am a member of the tribal council. I was the past tribal chairman. I appear before you as chairman of the board of directors of Riverside-San Bernardino County Indian Health Board, a program formed by eight federally recognized tribes in Riverside and San Bernardino Counties.

The rest of my testimony is in concert with my colleagues, almost verbatim.

Our attorney has prepared a detailed presentation for the rest of my presentation. I will yield the rest of my time to her.

[Prepared statement of Mr. Patencio appears in appendix.]

The CHAIRMAN. All of your statements will be made part of the record in full.

Ms. Karshmer.

STATEMENT OF BARBARA E. KARSHMER, ALEXANDER & KARSHMER, ATTORNEYS AT LAW, BERKELEY, CA

Ms. KARSHMER. Thank you, Mr. Chairman.

As you have heard, the three tribal program on whose behalf I am appearing today are opposed to the IHS eligibility regulations because of their effect on other Indians in California, not those specifically that they serve.

They are requesting, in their written testimony, that you take action to prevent the further implementation of IHS regulations, and that you adopt the eligibility definition for California that is contained in Section 709 of S. 129 at present.

Because these regulations don't affect these three programs and their constituents, we thought that perhaps we could provide you with a brief overview of the history in California that would make everyone's concerns more understandable, both from a legal and historical viewpoint, and I will attempt to do so very quickly.

As you may be aware, the history of the Federal Government's dealings with California Indians has been one of consistent failed Federal responsibility from the outset.

The year after California became a state in 1850, the Federal commissioners came to California to negotiate 18 treaties with all the California Indians. When those treaties were taken back for Senate ratification, the State of California strongly protested because the gold rush was in progress. Therefore, the treaties were not ratified.

The California Indians, however, had been urged to move off their traditional lands into smaller areas, which they did in good faith assuming that the treaties would be ratified and they'd be given new reservations. So, as result, many of the California Indians were left without land.

By the turn of the century, or by the late 1800's, Congress started to deal with the problem of the landless Indians of California by passing acts such as the Mission Indian Relief Act, which established the reservations which these health programs serve.

Congress also established other reservations; and presidential proclamations and executive orders established reservations for some of the other Indians. Other Indians in California became the recipients of public domain allotments and forest service allotments which they still hold. In addition, a number of reservations were established for a specific tribe and for other landless Indians that might later be placed there.

Although these groups of landless Indians and Indians placed on allotments were recognized as Indians and given land because of their Indian status, they, in fact, were never recognized as part of a tribe, and thus would be denied services under the new regulations which IHS has proposed.

However, section 709 of your bill does cover all of these people and will provide them with care.

The Federal Government has certainly taken very varied policies when it comes to providing services and in dealing with Indians. The policies have, as you are aware, swung from the extremes of terminating the special status of tribes and services for Indians to strengthening tribes and fostering services to Indians. No one has

felt the impact of these changes more than the California Indians have.

Perhaps one of the greatest milestones of the 20th century was the passage of the Snyder Act in 1923 which provided the authority for the Federal Government to provide health and other services to Indians throughout the United States. This act remains the basic authorizing legislation for the IHS appropriations.

Congress and the Federal Courts have recognized the Snyder Act as creating a trust obligation to provide health services to Indians; and it also creates, as the Supreme Court has said, an "overriding duty of fairness" on the part of the government in its dealings with Indians.

In administering Federal programs, the Federal Government has not distinguished between federally recognized Indians and non-recognized Indians here in California.

In the early 1950's, however, the government embarked upon a new era of termination, taking away the Federal status of Indians and forcing their assimilation in to the dominant culture. In California, all health services were phased out at this time, and some of the reservations were terminated. Yet, a majority of the tribes were not terminated in California, but merely had social services terminated.

Although the termination policies were clearly repudiated by 1968, the Indian Health Service did nothing to begin serving the Indians of California who had not been terminated.

The first funding that came for health service in California was in the early 1970's when a specific appropriation was added to the IHS appropriations for the California Rural Indian Health Board. At that point it was only $200,000.

IHS failed to respond to the needs of Indians in California, although it was well aware that the health situation of California Indians was very severe, and that the Indians were in severe need, that the health status had deteriorated since the withdrawal of services some 20 years earlier, and that during those 20 years State services had not been provided, as had been promised.

Because IHS did nothing to overcome the problems, I represented the Rincon Band of Mission Indians in a lawsuit against the Federal Government to force them to provide health care for the Indians of California.

The U.S. District Court and the U.S. Court of Appeals both found that the Federal Government had an obligation to provide the same level and scope of services to Indians in California as they did elsewhere; nonetheless, IHS continued to do nothing.

We went to Congress, ourselves, and the Appropriations Committee added the Equity Funds that have bolstered the health programs here in California substantially over the last seven or eight years. However, the Indians of California still lag far behind Indians elsewhere in the country in terms of the level of care they receive.

It appears to most Indian people in California that the new IHS eligibility regulations are evidence of a new termination era, one that is administratively but not legislatively sanctioned.

IHS claims that the new regulations are required in order to conserve resources and make more services available to a smaller

group of people; yet, it is our understanding that IHS recently said that 125,000 people would become ineligible, while another 125,000 people would become eligible.

IHS claims that it needs to create a more clearly defined service population, yet IHS has a new patient registration system which tells us exactly how many Indians are served and who those Indians are.

These regulations were, however, promulgated without any thought or concern to how the Indians who were no longer eligible would be served, or how they would be cared for.

We submit that this is a breach of the government's trust obligation to the Indian people, and a breach of their overriding duty of fairness arising from their history of dealings with the Indians of California.

My clients urge you and your committee to take all necessary action to prevent these regulations from going forward, appreciate all the work you have done so far to do so, and urge you to adopt the definition of eligibility in California that you have set forth in S. 129 in section 709.

We thank you for the time today. We will be happy to answer any questions you may have.

[Prepared statement of Ms. Karshmer appears in appendix.]

The CHAIRMAN. As an attorney, do you believe that eligibility standards should be national in nature, or take into consideration the uniqueness of regional differences?

Ms. KARSHMER. I think because there is a significant difference in history in different parts of this country, and differences in the status of Indians based on Federal dealings, I think that eligibility should take into consideration the regional differences, provided that people who are similarly situated are treated equally.

I don't see that there is any reason why it should not, other than perhaps bureaucratic convenience.

I think that the Indians in California have always been served, except for during the termination era when all services were withdrawn. And in the last ten years there has been no problem with serving all these Indians other than a lack of funds.

I don't see any reason why that couldn't continue.

The CHAIRMAN. What would be the consequence if the IHS regulations were implemented?

Ms. KARSHMER. All of the federally recognized Indians in California would continue to be served. All of the Indians who are not federally recognized would receive no services.

The CHAIRMAN. About how many are there?

Ms. KARSHMER. Senator, that is a question I don't know that I can answer. I have heard estimates between 20,000 and 50,000. I would guess 20,000 would be a reasonable estimate. I think probably other people today will be able to speak to that better than I since I represent mainly programs that serve federally recognized tribes.

The CHAIRMAN. Do you have anything else to add, ladies or Mr. Patencio?

[No response.]

The CHAIRMAN. I thank you very much.

Ms. KARSHMER. We thank you very much for your interest and concern for California Indians. It has been very much appreciated here.

The CHAIRMAN. Thank you.

Our next panel consists of the following: the Honorable Roy V. Hall, Jr., Chairman of the Shasta Nation, Yreka, California; the Honorable Michael L. Knight, Chairman, Sherwood Valley Band of Pomo Indians, Ukiah, California; The Honorable Donald Ray, Chairman, Hopland Band of Pomo Indians, Hopland; Ms. Jennie Garfield, Chairperson, Tule River Reservation, Tule River Elders Program; the Honorable Clarence Atwell, Jr., Chairman, Tachi Yokutes Tribe, Santa Rosa Rancheria; and the Honorable Jane Wyatt, Tribal Chairperson, Picayune Reservation, Coarsegold, California.

Our first witness will be Chairman Roy V. Hall.

STATEMENT OF HON. ROY V. HALL, JR., CHAIRMAN, SHASTA NATION, YREKA, CA

Mr. HALL. Thank you, Senator.

I am Roy Hall, Jr., Chairman of the Shasta Nation, Yreka, CA.

The Indian Health Service's final rule on eligibility, which has been delayed by Congress, poses a very serious threat to our people that have no alternative for health care and are dependent on the services of IHS.

The Shasta Nation, with 1,200 enrolled members, are aboriginal to Northern California. They signed a treaty with the United States in 1851 which was never ratified due to the rush for gold and California's request that the United States government not ratify any of 18 treaties negotiated with tribes in 1851 and 1852.

The Shastas have never been recognized as a tribe by the Federal Government; however, our people have been recognized as Indians, and many have received public domain allotments and allotments on rancherias established by the government for homeless Indians. Many presently have trust land.

The Shasta people have received health services from Indian Health Services since the establishment of IHS in California, and we request that the Senate Select Committee do everything within its power to ensure that all California Indians continue to receive Indian Health Services, specifically: any member of a federally recognized tribe; any descendant of an Indian who was residing in California June 1, 1852, but only if such descendant is living in California, is a member of the Indian community served by a local program of the Indian Health Services, is regarded as an Indian by the community in which such descendant lives; any Indian who holds trust interest in public domain, national forest, or Indian reservation allotment in California; and also any Indian in California who is listed on the plan for distribution of the assets of California rancherias and reservations under the act of August 18, 1958, 73 statute 619 and their descendants.

In the present time the health care is not adequate in Siskiyou County. The IHS has instructed that health care is elective. If not life-threatening, such conditions as cataracts, needed surgeries, and illnesses that cause permanent damage are ignored by IHS currently at this time.

It must be their policy that we Indian people can live with these conditions. We need answers to these serious health care deficiencies as soon as possible with Federal acknowledgement.

The Shasta Nation submitted a petition to the Department of Interior for Federal acknowledgement in July, 1984, and the process has been very slow and is impeded by inconsistencies in their criteria to be met.

If S. 129 is not passed, and the administration's final rule on eligibility goes into effect before we gain our Federal recognition, the Shasta Nation will be ineligible for Indian health services.

The acknowledgment staff of the Department of the Interior testified before a Congressional committee 2 months ago and stated that they can only process two such petitions in a single year; therefore, we urge you to consider our request to direct the Indian Health Service to continue to provide health services to California Indians pursuant to the language contained in S. 129.

We also ask that you intervene in the Federal acknowledgement process and direct the Department of the Interior to process the petitions for acknowledgment in accordance with their regulations without a subrogation of those who are charged with the processing.

Thank you for your attention to our concerns.

[Prepared statement of Mr. Hall appears in appendix.]

The CHAIRMAN. Thank you very much, Chairman Hall.

Chairman Knight.

STATEMENT OF HON. MICHAEL L. KNIGHT, CHAIRMAN, SHERWOOD VALLEY BAND OF POMO INDIANS, UKIAH, CA

Mr. KNIGHT. Thank you, Senator Inouye.

My testimony today is going to be for Consolidated Tribal Health Project as the vice chairman. I am also the chairman for Sherwood Valley Tribal Council.

Mr. Chairman and members of the committee, on behalf of the Board of Directors of Consolidated Tribal Health Project, we thank you for this opportunity to express our concerns.

I am Mike Knight, vice chairman of the board of Consolidated Tribal Health Project, and I am pleased to be here today to discuss our efforts in delaying the eligibility rule proposed by IHS which was published in the Federal Register on September 16, 1987.

The background history for Consolidated Tribal Health Project: it is a seven-member tribal organization as defined in public law 93638. Consolidated will be entering its fourth contract year with the Indian Health Service under authority of public law 93638 for ambulatory, medical, and dental care.

Currently we have 2,422 registered patients in our data base. The eligibility final rule may not provide health services to the whole family within Mendocino County. Some may be eligible, and some may not be eligible as the rules are currently proposed.

Since our inception we increased our estimated population of 1,200 to our latest count of some 2,442 patients, with an increased service population without an increase in service budget.

Our concern is that IHS is rationing medical care by Congressional appropriations.

As the vice chairman of Consolidated Tribal Health Project I, therefore, make the following request of this committee.

One, there is a consensus of opinion in California that all Indians of California should continue to be eligible for both direct and contract health care services. Indians of California, as defined in the policy memo of May 7, 1986, by Doctor Rhoades, has all Indians who are residing in the State of California on June 1, 1852, and their descendants now residing in the State.

National acceptance of this position, as in the Kane amendment to S.B. 129, Indian Health Care Improvement Act Reauthorization Bill, in no way expands the classes of Indians being served in California.

Two, any national legislation or eligibility for IHS services must contain language that specifically maintains services for Indians in California.

Three, any legislation on eligibility must include language requiring consultation with the relevant tribes in Indian health funded project as to the designation of health services delivery areas.

Four, all Indians residing in a health service delivery area should have equal access to IHS resources.

Five, Consolidated Tribal Health Projects is in full support of the tribes at the National 1988 meeting held on May 3 through 5, 1988, to withdraw the 42 CFR part 36 Indian Health Services final rule, and to stay with existing eligibility regulations under 42 CFR 36.12 in subpart C, contract health care services.

In closing, I would like to thank the committee and the chairman for this opportunity to express our concerns.

Thank you.

[Prepared statement of Mr. Knight appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Chairman.

Now Chairman Ray.

STATEMENT OF HON. DONALD RAY, CHAIRMAN, HOPLAND BAND OF POMO INDIANS, HOPLAND, CA

Mr. RAY. My name is Donald Ray. I am the tribal chairman from the Hopland Reservation in Mendocino County, California. I thank you for allowing me this time to present my testimony.

I would like my testimony accepted as official record.

The CHAIRMAN. All of your statements will be made a part of the record.

Mr. RAY. I just wanted to make sure.

One of the issues that brought me here was after I read Doctor Everett Rhoades' statement through your committee on January 21, 1988, in which he stated that it was true that they did not have enough data to make reasonable impact studies and estimates on an area-by-area or service unit-by-service unit concept. But my understanding, after reading his testimony, was that Doctor Rhoades is still pursuing to push the eligibility criteria through whatever agency he has to, to get it done.

My concern was that he is experimenting with the Indians in California because there are so many Indians that are not on tribal

rolls or belong to any groups, or that are not officially recognized throughout the State.

In Mendocino County we have approximately 800 people that are not officially recognized. The Hopland Reservation people are recognized, and they receive services from IHS, but I am here because we have a lot of concern that our relatives and people are not recognized.

I have aunts and uncles in my own family that are from these other organizations or groups and extended family membership that are not recognized, and they will be eliminated through the current eligibility criteria. So that is one of the main reasons I am here today.

It really disturbs me that Doctor Rhoades would experiment with American Indians on the eligibility issue in eliminating them to meet the dollar figure with the IHS money.

I would like to just read our recommendations that the Hopland Tribe has.

The Secretary of the Department of Health and Human Services would withdraw the final rule on Indian Health Services eligibility schedule to go into effect in September of 1988.

The Senate and the Congress of the United States enact legislation during the next session which would require an indefinite moratorium on implementation of any new regulations.

Require Congress to allocate funds to a tribal task force of California Indians for the purpose of conducting an assessment of the California Health Service Delivery Areas—CHDA's—region by region concerning the impacts of the various alternative changes in Indian Health Service eligibility criteria.

If recommendation B is not feasible, then we recommend that IHS central office Doctor Rhoades be required to allocate such funds to the California area tribal task force for this purpose.

Item D: recommend the tribal task force be an independent and unbiased body that will provide resolutions to those problems satisfactory to IHS and tribal governments throughout the California area.

Item E: require the task force to provide a report to Congress and this committee and the tribal governments of the findings and assessments with recommendations to all parties this eligibility impacts.

Item F: establish, by statute, the current Indian Health Service eligibility criteria for IHS services.

I think if these recommendations are followed I am assured that the tribes in California will at least have a positive direction to give to Indian Health Service in the future.

I thank you for allowing me this time to speak.

[Prepared statement of Mr. Ray appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Chairman.

I now call on Ms. Jennie Garfield.

STATEMENT OF JENNIE GARFIELD, CHAIRPERSON, TULE RIVER RESERVATION, TULE RIVER ELDERS PROGRAM, PORTERVILLE, CA

Ms. GARFIELD. Mr. Chairman, members of the Senate Select Committee on Indian Affairs, my name is Jennie Garfield, an enrolled member of the Tule River Tribe located in Tule County, Porterville, CA.

As an elder of my tribe, I wish to express my appreciation to you for affording this opportunity to testify before you today.

As chairman of our elders program, the heritage unit, we are attempting to develop a comprehensive Native American elders program on the reservation. The elderly there are recognized by our local tribal government when they reach the age of 50 years.

Although the Tule River Indian Reservation has been funded with title six program, services have been very limited. The Tule River elders are not receiving full services through either title six or title three programs.

The point I make about the Tule River nutrition program is the lack of services we receive, yet, we still have to meet certain eligibility requirements to receive these limited services.

The proposed IHS eligibility requirement would further impact the Tule River elders in a negative sense, because the Tule River Reservation criteria for enrollment is in conflict with the proposed IHS eligibility rule.

California tribal programs bring special complexities to the United States Congress because of our geography, diversity of tribal government, the tribal structures of some reservations, and the lack of full-functioning tribal governments as compared to other States that have Indian country.

Mr. Chairman, Tule asks that your committee, the Senate Select Committee on Indian Affairs, make every effort to see that the final rule on IHS eligibility be abolished.

We would also request that your committee hold additional oversight hearings in California, particularly at the local reservation levels. The concept would afford this committee a broader outlook of the problems and concerns the California tribes need to resolve.

I thank you, again, for the opportunity to address you, Mr. Chairman.

[Prepared statement of Ms. Garfield appears in appendix.]

The CHAIRMAN. I thank you very much, Ms. Garfield.

Our next witness is Chairman Atwell.

STATEMENT OF HON. CLARENCE ATWELL, JR., CHAIRMAN, TACHI YOKUTES TRIBE, SANTA ROSA RANCHERIA, LEMOORE, CA

Mr. ATWELL. Good afternoon, Senator.

My name is Clarence Atwell. I am the tribal chairman for the Santa Rosa Rancheria. I have a document here I would like to read to you.

We call each other "Inyanas," which means "relative to one another." The village near our rancheria has been occupied by our descendants 4,000 years.

Tule Lake has been a sacred shelter for our people for 16,000 years, yet the earth of our people has grown smaller, and we see her sickened by pollution from the hands of human beings.

Some of our elders have expressed their dissatisfaction with the government.

You moved us from our land, killed our earth, then asked us opinions about policies and ways to make our life better.

The U.S. Congress denied us dignity and right to live on our land, according to treaties made by our tribe and others. The Barber Treaty in 1850 was not ratified because the State of California did not consider us to be human or deserving of a place to live.

So many words have been spoken to us that have been untrue.

The government was sued for dishonor and disrespect shown to our tribes. They paid money to make the wrong go away, yet the wrong remained here.

Many of our tribes were terminated and told they would no longer have rights as Indians. They were told to pay property taxes on their tribal homeland and rancherias. They were told the State of California, who was their enemy, would help them to be ruled and survive in the economic way of the non-Indian.

We were told it would be good for our tribes to terminate our relationship with the government, the U.S. Congress, the BIA. We did not do this. Government people told us crazy things and said it would be better if we had followed their way.

Things got worse for anybody who followed their way. It is the same today.

Federal agencies, such as the BIA and IHS, are not set up to administer policies. They exist to enforce policies. This allows the system to dominate tribal government. It does not allow small tribes with little government structures to economically survive.

Self-determination is a government concept which has not been implemented among our people and our tribe in the 14 years since we were told it would be all right for us to determine our own destiny as Indians.

The big joke in California is that there are as many different documents such as constitutions, by-laws, etc., which are the legal basis for Federal recognition as there are cures for AIDS. This means that many of our tribal governments attesting sovereignty need to modify or standardize the legal basis for their recognition as a tribe.

Many tribes still have to work within blood quantum and membership requirements that seem to be unwise and terminal to the future of the tribe.

The 638 contract process between BIA and IHS and our tribe has only one workable example—our alcohol and drug counselling program is administered within the parameters of a 638 contract with IHS.

The 638 contract process seems to be ignored or else useless to the agencies responsibile to preserve its relationship with California tribes.

I have heard that one reason given for the lack of contracts is poor track records of tribes in terms of contract compliance. The reality is that the tribal governments are expected to possess increasingly complex skills to obtain favorable contracts.

The majority of our people do not possess or want to possess these skills because there are very few training programs provided by the agency who desire tribal people to function in this matter.

Our people should not suffer because they do not fit into a file system or are not Federally recognized or not legally eligible for services. The sad truth is that some of our people will die before their time, and some of our people are suffering because they are not eligible for treatment. Some of them will not live in the right HRDA zones of the health service delivery. Some of them will not have access to clean environment, running water, power, etc., because they are not Federally recognized, even though they are of Indian descent living on Indian trust land.

The sad truth is that your system or social order cannot understand and provide any help to the large number of Indian people in California.

Many of our people have been advised to gain Federal recognition as a tribe, yet this process is so complicated and lengthy that many of our people will have long since been dead before any action is taken by the government.

Equally distressing is the fact that none of our people seeking Federal recognition have status as an Indian or an eligibility for service until they have complied with the government's application process and have been approved.

We currently have a significant number of Indian people in California who live in some of the worst kind of circumstances imaginable.

Some of the recommendations of the 1984 California Indian Task Force, which were submitted to the Assistant Secretary of Indian Affairs have been implemented. Many of the recommendations have been ignored or condemned by BIA or IHS as being too costly or beyond their capability to implement.

The irony is that Assistant Secretary Swimmer met with California tribal leaders in 1986 and mislead the entire delegation. He was poorly counselled, with incorrect responses to two of the three recommendations for economic development contained in the task force report. This damaged his credibility in my understanding and in the minds of other tribal leaders in California.

I do not wish to infer that all the things in California are terrible between our tribe, BIA, and IHS. Our primary difficulty is with the area director of BIA, Morris Babby. His personality is offensive, and he does not seem to possess or utilize the management skills which are supposed to exist amongst members of the senior executive services levels of the civil services.

Our main problem with the IHS concerns growth of the area office staff in Sacramento at the expense of clinical and program staff in our Indian communities.

We face cutbacks in our clinical service programs in the central valley area in which the staff and the budget for the area office increased. This is not to our advantage or helpful to the IHS.

I have made recommendations that I would like to share with this oversight hearing committee.

One, the U.S. Congress should abolish IHS eligibility regulations for California Indians and maintain the status quo subject to information from Indian communities.

Two, I request that Senator Inouye hold additional oversight hearings in California so the U.S. Congress can be aware of Indian concerns which tend to be unique to California.

Three, I request that Senator Dennis DeConcini consider California as an area for investigation into fraud, abuse, administrative liability by some Federal agencies and their relationship with California Indian people.

Thank you for your time.

[Prepared statement of Mr. Atwell appears in appendix.]

The CHAIRMAN. I thank you very much for your time, sir. [Applause.]

Our next witness is the Honorable Jane Wyatt.

STATEMENT OF HON. JANE WYATT, TRIBAL CHAIRPERSON, PICAYUNE RESERVATION, COARSEGOLD, CA

Ms. WYATT. Mr. Chairman and committee members, I am Jane Wyatt. I am also on the tribal council of the Picayune Reservation, Coarsegold, CA.

On behalf of our 400 members, I am recommending that code 42 of Federal regulation part 36, dated September 16, 1987, pertaining who may or may not receive health care services from Indian Health Services be rescinded and revoked immediately.

This request is consistent with the resolution of May of 1988 by our tribe at a tribal leader meeting in Nashville, Tennessee.

This final rule on eligibility, if it should become law on July 15, 1989, will eliminate health care services for approximately 70,000 California Indians.

There were 18 treaties negotiated with the Federal Government from 1851 until 1852 which were never ratified by Congress, leaving more California Indians with no access for health services or funds with which to purchase health care services.

Our people will, once again, become the victims of deliberate action by the Federal Government to eliminate the responsibility in providing funds and/or health, education, and social services in lieu of taking our amounts.

IHS was created in 1956 under the public service provision in an effort to increase the services and upgrade efficiency in the provision of health care services for American Indians.

In spite of IHS prestige, they have failed to bring the general health status of the American Indian in parity with all others, i.e., the infant mortality rate is four times higher than the other general population. The life expectancy rate is 20 times less than the average american.

To ensure the health status does not bottom out for our people, we are urging the U.S. Senate to take positive and immediate action to reaffirm Senate bill 129, the authorization of the Indian Health Care Improvement Act, P.L. 94437.

This action would ensure that health care services for American Indians and Alaska Natives will not be terminated.

We are urging the U.S. Congress to rescind or revoke the final rule on health care services eligibility. This action would demonstrate a good faith effort towards the American Indians.

I have allowed a few minutes for my niece to do a final note.

[Prepared statement of Ms. Wyatt appears in appendix.]

STATEMENT OF SUNNY AOL, NIECE OF HON. JANE WYATT

Ms. AOL. I am Sunny Aol of the Chipchency Tribe who reside in the Central Valley.

I only have one thing to say, and it is this: I oppose any laws that would not allow American Indian people to get health care service or any other native services.

This eligibility law would hurt my American Indian brothers and sisters.

Thank you. [Applause.]

The CHAIRMAN. I would like to assure you that as long as I am chairman of the committee and a Member of the United States Senate I will do whatever I can to make certain that the trust relationship which is so precious will be upheld by the government of the United States.

Furthermore, I will do my best to convince my colleagues that the solemn promises that we made as a nation many years ago be honored and recognized.

S. 129, as you know, was passed by the Senate Select Committee last year. It was rather early on, but because there were several Members of the Senate who were quite concerned about abortion, they insisted upon putting an amendment on this bill that would have prohibited the use of Federal funds for purposes of abortion.

That could have spelled the death of that measure, but I am pleased to tell you now that the House and the Senate have worked out a compromise that I believe will satisfy one and all, and the definition that you have been pressing for has been held intact in the measure.

So we believe that sometime next month—August—S. 129 will be taken up on the Senate floor and passed. It should become law this year. [Applause.]

I thank you all very much. I appreciate it.

Our next panel consists of: the tribal councilman of Karuk Tribe of Happy Camp, California, the Honorable Aaron Peters; and the Honorable Reggie Pagaling, tribal business members of Santa Ynez Executive Council, Santa Ynez, California.

May I now call on Councilman Peters. Please proceed.

STATEMENT OF HON. AARON PETERS, TRIBAL COUNCILMAN, KARUK TRIBE, HAPPY CAMP, CA

Mr. PETERS. I am Aaron Peters from the Karuk Tribe of California.

The Karuk Tribe is located in the far northern part of the State of California near the Oregon border. The Karuk Tribe expresses their gratitude to you, chairman, for arranging this important Indian Health Service eligibility issue gathering.

The Indian Health Service eligibility issue would impact our tribe and our neighboring tribal brothers and sisters adversely.

The Karuk Tribe requests the Senate Select Committee to initiate legislation to abolish the Indian Health Service eligibility regulation.

The Indian Health Service eligibility regulation only adds to the tribe's problems of having services excluded due to the lack of tribal consultation and inadequate funding levels and other funding factors to keep them from having their needs met, such as treatment centers to combat our problem with alcoholism and drug abuse within our communities.

If the Indian Health Service eligibility regulation was to be implemented today on the Karuk Tribe of California, the impact would be felt immediately because a lot of California Tribes are not on reservations or Federally recognized, which is the number one condition of this regulation.

This regulation is demanding that the tribes that are Federally recognized turn their backs on their tribal brothers and sisters, and by doing so we would cause the following: death rate, suicide rate, alcohol and drug abuse rate, and the crime rate to go up in our communities. This kind of neglect would cost the U.S. Government more than at present.

The Karuk Tribe of California requests that there be more oversight field hearings regarding Indian affairs. Congress cannot keep sidestepping tribal issues.

The Indian Health Service has not lived up to their responsibility concerning equitable funding for California Indians. California tribes appear to be at risk of losing programs under the direction of IHS or the BIA.

Congress must recognize that California tribes have historically endured racism or intolerance from the State of California. We must inform you of the need to bring California tribes into the mainstream of Indian country.

Thank you.

The CHAIRMAN. Thank you very much, sir.

Mr. Pagaling?

STATEMENT OF HON. REGGIE PAGALING, TRIBAL BUSINESS COUNCIL MEMBER, SANTA YNEZ EXECUTIVE COUNCIL, SANTA YNEZ, CA

Mr. PAGALING. Mr. Chairman, my name is Reginald Pagaling, and I am a tribal member and a business council member from the Santa Ynez Indian Reservation.

On behalf of the Santa Ynez Reservation and the American Indian constituency it represents, I am honored to have this opportunity to present testimony before your committee.

Our reservation is located in Santa Barbara County, two hours north of Los Angeles. Up until the past year our reservation's boundaries only extended to 99 acres. It now totals 127 acres—60 percent of which is fit for human use.

President Reagan's western home, his Santa Barbara Ranch, overlooks the Santa Ynez Reservation. In fact, the access road to the President's ranch is less than one-quarter mile from the reservation's boundaries.

I wish to express our sincere gratitude to you, Chairman Inouye, for arranging this field hearing on the IHS eligibility issue.

The IHS eligibility regulation would impact our tribe adversely if it were implemented as it is written today. The Santa Ynez tribe

requests the Senate Select Committee to support and initiate legislation that will abolish the IHS eligibility regulation. An example of such legislative support would be S. 2382 sponsored by Senator Melcher.

While utilizing that existing criteria, health care services are extended to tribal members who are direct descendants. Yet, pending within our own tribal government is a measure that would increase our tribal enrollment by 150 percent. However, under the final IHS eligibility regulations, all of those pending tribal members would be ineligible.

The IHS supports the use of BIA's tribal enrollment figures, yet the bureau's tribal enrollment department is backlogged by five years with pending tribal enrollment requests.

Those tribal members who do not live within the proposed IHS service delivery area would no longer be eligible for health care services.

In addition to our own tribal members, the increase of relocated American Indian families is on the rise by 10 to 15 percent annually with no projected budget increase to meet their needs.

Locally, our current funding level for contract health care only meets 51 percent of our current health needs.

Lastly, funding for hospitalization is very limited and practically nil.

As we previously mentioned, the concepts of the Melcher bill, S. 2382, addresses the concerns of our tribe and tribes and Indian organizations nationwide.

This identifies four specific areas of concern: first, it imposes a three-year moratorium on the implementation of any new rules which would change the existing eligibility criteria; second, it requires the Secretary, acting through the Indian Health Service, to conduct a study to determine the impact of any changes in eligibility; third, it requires the Indian Health Service to consult—and consultation is a very big issue here—with Indian tribes which would be affected by any changes in eligibility; and, lastly, fourth, it requires the Secretary to report to Congress on the study with input and comments from the Indian tribes, rural and urban Indian health organization on that report so that it, Congress, can evaluate the relative cost and benefits of any changes.

In closing, the Santa Ynez Tribal Council requests the Senate Select Committee on Indian Affairs to hold additional oversight field hearings here in California to address our numerous tribal needs.

We thank you, Mr. Chairman, for providing this opportunity to hear from us and from tribes throughout the State.

[Prepared statement of Mr. Pagaling appears in appendix.]

The CHAIRMAN. I thank you very much. Thank you, Mr. Peters. Your concerns will not only be noted, but they will be made part of the law of the land. Believe me.

Thank you.

Our next panel consists of: the vice chairman of the California Council of Tribal Governments, Mr. Ray Oscar; Mr. Patrick Renick, Executive Director of the California Tribal Health Association of Sacramento; and Ms. Sandra Willburn, urban program developer of the California Urban Indian Health Council.

The Chair recognizes Mr. Oscar.

STATEMENT OF RAY OSCAR, VICE CHAIRMAN, CALIFORNIA COUNCIL OF TRIBAL GOVERNMENTS, REDDING, CA

Mr. OSCAR. I am Ray Oscar, the vice chairman of the California Council of Tribal Governments.

The California Council of Tribal Governments is a consortium of 24 federally recognized tribal governments in the State of California.

In preparing our testimony for this meeting, we asked the 24 members to provide us with a direction in which to go. A sample of some of the statements that we received I shall read Susanville Indian Rancheria statement that they sent us in regards to this testimony.

"On June 27, 1988, at a duly called meeting of the Susanville Tribal Council Indian Health Board of Directors, the tribe expressed their concerns regarding the Department DHHS new eligibility rule and the negative impact the implementation would have on the total Indian service population.

"The intent of this statement is an expression of our opposition to the new eligibility rule as presently proposed by DHHS, IHS, and accordingly to go on record stating our objection.

"Furthermore, because of the numerous complexities revolving around the implementation of the eligibility rule and the necessary time required for meaningful consultation and full participation of Indian people in California and nationwide, we hereby request that there be an indefinite moratorium on the implementation of any new regulations, and recommend that DHHS/IHS would draw the final rule on IHS eligibility scheduled to go into effect September 16, 1988." And it is signed by the tribal chairman.

The CHAIRMAN. If I may interrupt—if you wish the people to hear your testimony, may I suggest you speak from the podium. The microphone is better there.

Mr. OSCAR. OK.

The CHAIRMAN. Otherwise I would be the only one that could hear. I am certain that the tribal members will want to hear what you have to say.

Mr. OSCAR. Based on the information that we received from our member organizations, the Council of California Tribal Governments adopted a resolution number 88-002, and requests the Secretary of Health and Human Services to withdraw final ruling on changes to Indian Health Service eligibility policy effecting American Indians.

Whereas the California Council of Tribal Governments, Incorporated, is both a State and federally chartered Native American consortium of 24 federally recognized land-based tribes in Northern California and,

Whereas the primary mission of Council of California Tribal Governments is to improve the socioeconomic status and promote the general welfare and address the issues and causes of poverty among disadvantaged Indian people, and,

Whereas California Council of Tribal Governments has reviewed and identified those changes in Federal policy regarding eligibility for health services by Indian people, and,

Whereas said proposed changes would be extremely devastating to the health and well-being of California Indian people,

Therefore, be it resolved that the Secretary of Health and Human Services set in motion a notice to withdraw his proposed final ruling before September, 1988, and re-evaluate the effects of this potentially destructive action.

And be it resolved further that the Secretary of Health and Human Services continue the much-needed health-related services to and for American Indians without any changes.

And be it finally resolved that the Secretary seek an increase in appropriation budgets to provide quality health care to its first Americans without discrimination that is currently proposed in this final ruling.

That is a summation of our testimony.

Thank you.

The CHAIRMAN. Thank you very much.

Mr. Renick, would you like to take the microphone there? It might be better.

STATEMENT OF PATRICK RENICK, EXECUTIVE DIRECTOR, CALIFORNIA TRIBAL HEALTH ASSOCIATION, SACRAMENTO, CA

Mr. RENICK. Chairman Inouye and Senate Select Committee on Indian Affairs, my name is Patrick Renick, the executive director of California Tribal Health Association.

The California consortium is composed of 27 tribes. These tribes contract and administer the operation of seven outpatient clinics providing services to 14,500 California Indians.

As executive director of the California Tribal Health Association, I have been directed to request the Senate Select Committee chairman to initiate or support legislation to abolish or place a 3-year moratorium on IHS eligibility regulations.

More importantly is the issue of having the subcommittee fund a 3-year impact study and designate the California Tribal Health Association as the administering organization.

No other organization in California has the broad 638 representation nor substantial compliance with the Indian self-determination ethic in California.

California Tribal Health Association's administering of this study would ensure that the Indian Health Service receives meaningful input from tribal leaders. This, quite frankly, has not been the case in the past.

Tribal consultation is a necessary ingredient for the success of this proposed impact study, in my opinion. In the past, Indian Health Service initiatives have failed because they were perceived as pre-determined directives with no opportunities for tribal input.

Another area of concern for California Indians is the need for bringing the State into parity with funding levels of other Indian Health Service areas.

Our tribal Indians are spread among some 94 reservations and rancherias in the State. These needs are geographically diverse,

and many live in counties where there are no local programs to actively address the health needs of their Indian populations.

California's IHS budget is the lowest in the nation as far as per capita payment for Indian health care. In 1981 the Rincon Band of Mission Indians in Southern California filed a lawsuit against the Federal Department of Health, Education, and Welfare asking for equity of health services in California. The Rincon lawsuit was rendered in favor of the Rincon Tribe.

The Federal court order was obeyed for the first year. The impact of the money was diminished over the years as IHS spent the monies into their national budget and other service areas across the nation.

The proposed IHS eligibility regulations will severely impact any regional impact any regional impact centers in California for treatment of alcohol and drug patients.

The proposed treatment center has been authorized through public law 99570, but implementation has been decelerated within the Indian Health Service administration.

As I have mentioned, we have the largest Indian population in the country. The relocation and urbanization of many Indians in California has aggravated the drug and alcohol statistics of our State. Poverty and high unemployment has given rise to high statistics when it comes to alcohol and drug use on reservations and rancherias. The process for approval of regional treatment center for California has remained painfully slow.

I ask your subcommittee to encourage IHS to expedite this process and begin treating California Indians as soon as possible at this treatment center.

I would like to suggest that IHS budget language contain specific procedures for tribal consultation with regard to integrating more professionals into the IHS California area office and contracted programs.

There is need for more tribal management funds for the Indian Health Service's California area office in California. These funds can facilitate the process through more tribal consultation with the tribes.

In conclusion, Mr. Chairman, California has not gained parity with other IHS offices along with the rest of the general populous when it comes to health care for California Indians.

Much of this is because of our lack of organization and communication. We have been impeded by history. Many of our tribal members cannot afford to travel to Washington, DC.

But more of the blame might be rightfully directed relative to inadequate statistic data gathering, inadequate funding formulas, and inefficient budget implementation.

Perhaps a 3-year study on IHS eligibility and other Indian health regulations could also be used to examine some of the other areas of concern I have mentioned.

California is in sore need of a tribal-consulted updated master plan for California Indian health care.

I thank you, Mr. Chairman, for your kind attention. I will be happy to answer any questions and provide any background information you desire.

[Prepared statement of Mr. Renick appears in appendix.]

The CHAIRMAN. Thank you very much.
Ms. Willburn.

STATEMENT OF SANDRA WILLBURN, F.N.P., M.P.H., URBAN PROGRAM DEVELOPER, CALIFORNIA URBAN INDIAN HEALTH COUNCIL, INC., SACRAMENTO, CA

Ms. WILLBURN. Mr. Chairman, my name is Sandra Willburn, and on behalf of the eight Urban Indian Health Programs in California I appreciate the opportunity to appear before you today and discuss the issue of eligibility criteria for Indian health services.

The 1980 U.S. Census projections estimate that approximately 180,000 American Indians live in metropolitan areas in California.

Urban Indian health programs have been providing primary care, outreach, and social services to this population for over 16 years, and have established themselves as an integral part of the Indian health services delivery system and urban Indian communities.

California Urban Indian health programs serve members of tribes located throughout California and other states. A large percentage of this population was moved to urban areas as a result of the relocation program undertaken by the Federal Government during the 1950's.

Additionally, a significant number of the over 63,000 clinic visits documented at Urban Indian Health Clinics during 1986 and 1987 were provided to clients who remained in an urban area for less than one year. Thus, our service population can be characterized as having a relatively stable segment as a result of the relocation program, and highly mobile segment who move between urban centers and rural reservation communities, and the urban Indian population continues to maintain strong ties with their respective reservations and families.

Urban Indian Health Programs provide the following recommendations on eligibility criteria for Indian health services.

We'd first like to recommend a recision of the final rule published in the Federal Register in September, 1987.

We also would like to recommend a moratorium on the implementation of any rule that changes the eligibility criteria for Indian health services.

Further, we recommend a completion of an impact study regarding the eligibility criteria that includes tribe and urban health program input in the study design, its implementation, and final analysis. This study should be conducted on an area-by-area basis throughout Indian Health Service.

California Urban Indian Health Programs support this position based on the following two major considerations of the final eligibility rule as published on September 16, 1987.

The first consideration is in regards to health service delivery areas. The final ruling is that residence in a designated health service delivery area is a necessary criteria for eligibility for both contract and direct services, with the Secretary given final authority to determine HSDA boundaries.

Within California, Indian people have been advised that these HSDA's will be used as a primary health planning and administra-

tive entity for Indian Health Services. Historical circumstances have resulted in ten counties containing large metropolitan areas and nine rural counties being excluded from the official designation as HSDA's within a state.

Therefore, Indian health programs service populations from both the urban and rural areas in these counties are excluded from IHS planning activities, and, in the case of rural counties, all IHS services.

The second consideration is the requirement for enrollment in a federally recognized tribe. Urban Indian Health Program clients include members of tribes who have, for various reasons, closed their tribal rolls, are members of non-federally recognized tribes, or have not completed the tribal enrollment process.

There is concern that these individuals would be ineligible for services as they migrate between urban and rural reservation communities. This would have the effect of disrupting the continuity of care between urban and rural Indian health programs and exacerbating already poor health conditions.

The Congressional and Public Affairs Office of Technology and Assessment of Indian Health Status printed in 1986 states the health status of Indians living in urban areas as mirrors that of Indians living in rural reservation areas.

Chart reviews conducted in California Urban Indian Health Clinics during 1987 and 1988 substantiate this finding. For example, the rate of diabetes melitis in our client population is at least twice that of the general population.

Another example is the finding that the majority of Indian women using urban clinics for prenatal services are entering the health care system in their second and third trimesters of pregnancy. These women are also experiencing rates of pregnancy and delivery complications that are greater than the rates for the general population.

The poor health status of Indians in these two settings in part reflects the movement of Indians between urban and rural communities, and the persistence of poor health in Indians irrespective of their residence.

In conclusion, implementation of the final eligibility rule published in September, 1987, Federal Register, would serve to exacerbate already-existing poor health conditions by excluding members of the Indian community and disrupting the continuity of services between urban and rural health service providers.

Urban Indian Health Programs therefore support the following position: again, a recision of the final eligibility rule as published in the Federal Register, September, 1987; a moratorium on implementation of any rule changing eligibility criteria; and completion of an impact study on an area-by-area basis, including input from tribes and urban health programs in its design, implementation, and final analysis.

Thank you. [Applause.]

[Prepared statement of Ms. Willburn appears in appendix.]

The CHAIRMAN. Thank you.

I thank you all very much, and I can assure you that your words will be very seriously considered.

Our next panel consists of: Mr. Dennis Hendricks, Chairman of the California Rural Indian Health Board; The Honorable Neddeen Naylor, Chairperson of the Lone Valley Paiute Tribe and Chairperson of the Toiyabe Indian Health Program, and she will be accompanied by the Honorable Joseph Saulque, Chairman of the Utu Utu Gwa Itu Paiute Tribe; the Honorable Bill Levit, Chairman of the Camp Antelope Band of Paiutes; and Mr. Andy Anderson, Project Director of the Toiyabe Indian Health Program; and Ms. Beverly Martinez, Chairperson, Central Valley Indian Health; Ms. Laura Manuel, Health Board Member, Tule River Indian Health Program; Mr. Sam Jones, Chairperson, United Indian Health Services, accompanied by Mr. Amos Tripp; Ms. Sandy Hamilton-Hoagland, Board Member of Chapa-De Indian Health Program of Auburn California.

The Chair recognizes Mr. Dennis Hendricks.

STATEMENT OF DENNIS HENDRICKS, CHAIRPERSON, CALIFORNIA RURAL INDIAN HEALTH BOARD, INC., SACRAMENTO, CA

Mr. HENDRICKS. Thank you, Senator.

My name is Dennis Hendricks. I'm chairman of the California Rural Indian Health Board and a member of the Tulony Band of Miwok Indians.

California Rural Indian Health Board—or CRIB, as it is called—was founded in 1969 by a consortium of tribes interested in the reestablishment of Federal health services in California through a network of tribally-governed Indian health organizations serving the rural Indian population of this State.

Federal health care funding to California Indians had been cut off by HCR 106, a Congressional resolution enacted in 1954 during the termination period to eliminate Federal health and welfare services to California Indians.

It was a first step in the plan the government intended to implement for Indians throughout the United States. Its disastrous consequences in our state helped save the rest of Indian Country from suffering the same fate.

California was picked first because a few years prior the status of many of our Indian people had already been terminated, and because so many Indians in California were not formally affiliated with tribes recognized by the United States, and thus at a disadvantage to organize and to resist this policy.

The reasons for the unique status of California Indians is buried in history, accident, and previous policy.

To begin with, the many treaties entered into between California Indian tribes and the United States in the 1840's were never ratified by Congress. Those treaties would have set aside almost one quarter of the state as reservation trust land.

Unfortunately, the lust for gold overruled the need to adequately provide for California's original inhabitants, so that most of our tribes—the Midu, the Miwok, the Winton, the Shasta, and the Pomo, and many others—have never been recognized, but continue to exist as Indian communities still seeking recognition.

Later a patchwork of very small reservations for what were termed "homeless and landless Indians" was established, but this

only resulted in the recognition of less than half of our people as members of Federally-recognized tribes.

Later, still in the 1950's on through the late 1960's, implementation of the Federal policy of termination resulted in the loss of tribal status to almost a quarter of these rancherias recognized a few years earlier.

Today in California there are 19 organized groups of Indian people native to the State who are seeking Federal recognition, and they are seeking this through the Bureau of Indian Affairs' recognition process.

This process, however, as it currently is established, is cumbersome and virtually unworkable. At best it is very slow and very expensive.

In 1970, as a result of the efforts of the tribes which founded CRIB, the Federal Government began again to provide health care dollars to California Indians by funding seven pilot health projects with a total of $70,000. This money was utilized to serve the entire rural Indian population in California, both affiliated and unaffiliated, as long as they met the standards for eligibility in 42 CFR 36.12. That is, they were Indians living in established IHS service areas who belonged to the Indian community to be served.

For those last 18 years, CRIB has continued to advocate for one standard of eligibility for California Indian people and Congress and IHS have listened.

The success of our effort to return Federal health care services to California was capped by a direct-line appropriation to CRIB in the Federal Appropriations Act of 1973 identifying funds for all eligible Indians residing in the 35-county area within the State of California.

This line item was repeated in the 1974 Appropriations Act, and in the attached letter from Doctor Everett Rhoades dated May 7, 1986, IHS agreed that it was the intent of Congress to make eligible all the Indians CRIB and its member programs in California had been serving, irrespective of their status, based on need.

That need still exists. Doctor Rhoades' letter accurately reflects the history of eligibility in this State, and it would be inconsistent with that history and the unique status of Indians in California to change all that now by cutting off the majority of Indians in this State—those that are not affiliated with federally recognized tribes.

To that end, we have supported section 709 of S.B. 129 which sets out each category of California Indian to which the government has historically provided services and mandates that they continue to be served.

It should be noted that without legislative intervention the final rule on IHS eligibility published on September 16, 1987, will effectively terminate health care services for most Indians of California, including the landless Indians of California on the California claims roll, those with allotments on public domain, and those who are descendants of Indians living in the state in 1852 who still remain residents of their original ancestral lands.

Current estimates based on the Bureau of Indian Affairs Labor Statistics and U.S. Census count projections from the Indian Health Service suggests that as many as 50,000 Indians of Califor-

nia would lose their eligibility under the currently-pending final rule.

Obviously the loss of service area population on this scale would result in the dismantling of the current health care delivery system in the State of California, which is composed exclusively of health organizations governed by Indians eligible for services.

Even more importantly would be the impact on the individual Indians in isolated areas who would lose access to any health care services.

The tribal contractors who provide all IHS-funded health care services in California are acutely aware, through our patient registration system, of the large numbers of Indian people with low-paying and seasonal employment who would not qualify for medical coverage and who also do not have private insurance.

The pending final rule on IHS eligibility establishes a single standard for eligibility for both contract and direct care services. CRIB supports this concept because we believe it is inequitable and discriminatory to provide different levels of service for similarly situated Indians based on whether they have close social and economic ties with federally recognized tribes in their service area.

In closing, I would like to again stress that any new eligibility standard must provide for the continuation of services to all California Indians.

Thank you for the opportunity to speak to you today on this very crucial issue.

[Prepared statement of Mr. Hendricks appears in appendix.]

The CHAIRMAN. Thank you, Mr. Hendricks. [Applause.]

Now the Chair recognizes the Honorable Neddeen Naylor.

STATEMENT OF HON. NEDDEEN NAYLOR, CHAIRPERSON, LONE PINE PAIUTE TRIBE, AND CHAIRPERSON, TROIYABE INDIAN HEALTH PROGRAM, BISHOP, CA, ACCOMPANIED BY HON. JOSEPH SAULQUE, CHAIRMAN, UTU UTU GWA ITU PAIUTE TRIBE, BENTON, CA; HON. BILL LOVETT, CHAIRMAN, CAMP ANTELOPE BAND OF PAIUTES, CAMP ANTELOPE, CA; AND ANDY ANDERSON, PROJECT DIRECTOR, TOIYABE INDIAN HEALTH PROGRAM, BISHOP, CA

Ms. NAYLOR. I am Neddeen Naylor, Senator. I am the chairperson of a small reservation located in Owens Valley, and I am also the chairperson for our health board, which encompasses seven tribal governments in that area.

We have met and talked about this eligibility requirement, and we feel that although it will not harm us as far as reservation or land recognized people, it would hurt other people that live throughout California, and our tribe and our health project adamantly requests that this eligibility rule be abolished, and that if anything is ever done again in regards to eligibility, that an intense study be done to see what effects it would have on the Indians of California.

Thank you.

[Prepared statement of Ms. Naylor appears in appendix.]

The CHAIRMAN. I thank you very much, Ms. Naylor. [Applause.]

Mr. SAULQUE. I am Joseph Saulque, chairman of the Benton Paiute Reservation. I want to thank you for your time in coming out here and hearing these issues.

I think a lot of the issues we have don't pertain to this presentation, and we sure look forward to your other meetings you have scheduled for California to air those problems.

However, I think that the Indian Health Service eligibility rule that has been created would definitely provide a hardship on a number of American Indians, and especially those who are even full-blooded American Indians who will be cut off from Indian Health Services.

I really think that the regulation cannot be implemented, shall not be implemented, or should not be implemented, and that if S. 129 should be passed this year and signed into law it will help California Indians, especially in the eligibility area. However, it will not help other Indians across the United States who may be in the same class of problems.

So I think this hearing, and also any kind of legislation that may deal with Indian Health Service eligibilities in the future should address those concerns as well.

And I think that we need to keep on top of stuff like this, and I think you're help in Indian affairs for us has helped us to put up with and combat the colonial affairs and colonial attitude of the Indian Health Service and the Bureau of Indian Affairs.

Thank you. [Applause.]

The CHAIRMAN. Does Chairman Lovett wish to say something?

Mr. LOVETT. Thank you, Mr. Chairman.

I am Bill Lovett, tribal chairman of Antelope Valley Indian Community, Monachi, California. Currently we have a petition to become Federally recognized. Even though we are not a recognized tribe yet, I do take being chairman very seriously.

The new rule would discontinue services to 125 people in our area—over 50 percent are full-blooded Indians.

My own comments and with the comments of a lot of the people in my area: if the government would just follow the treaties they signed with the tribes or forced treaties upon the tribes we wouldn't have this problem. The only trouble is that when the treaties benefit the government they are really good, and when the Indians try to push the treaties it becomes null and void.

Our health monies every year since I've been on our board are going down, and yet our populations are just rising, and the government, to me, is looking at it another way. They act like we're going to dry up and go away, which is not true.

Through the generosity of seven recognized tribes we do have a satellite clinic in our area, but if the rule goes into effect there will be no money to serve our people and we will just be left out high and dry.

That's all I have to say.

Thank you for your time, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Chairman. [Applause.]

Mr. Anderson.

Mr. ANDERSON. You just heard from three of my bosses, so you know that I support their position on eligibility.

I just want to take 1 minute here to thank you and your staff for some of the other issues related to this that I think you have supported us on, which is the clarification towards claims language this year. We understand there has been some language in the appropriations that I think your staff has been involved with on the House side. We just heard about it today, and it looks real good. It is going to help us. It will save us $40,000 a year right there if we get the president to sign it. So we appreciate that.

Last year you put some language in there for helping us recruit docs. These are all important issues, because if we don't have physicians, we can't provide services. It is a very, very difficult market finding family docs now. I think you know that, and I think it across the country.

Last year you put some money in the budget for a loan forgiveness program for doctors so we can recruit it. It has helped us recruit two doctors this year. We support that. Unfortunately, I think it is under-funded. I think there is only $2 million in that from fiscal year 1988. Estimates are that it should be about $10 million to make it work.

Those are really important issues to us, and I think your staff has been really helpful on that and we appreciate it, and hopefully we can keep working that way.

So I, too, welcome you guys to California, and if you want to invite us all to Hawaii we'd be happy to go there for the next hearing. [Laughter.]

The CHAIRMAN. Thank you, Mr. Anderson.

Our next witness is Ms. Beverly Martinez, chairperson of Central Valley Indian Health, Incorporated.

STATEMENT OF BEVERLY MARTINEZ, CHAIRPERSON, CENTRAL VALLEY INDIAN HEALTH, INC., CLOVIS, CA

Ms. MARTINEZ. I am a California Indian, and chairperson of the board of directors for the Central Valley Indian Health, Inc.

Our service area has three counties, and we provide services to six tribes that are federally recognized, and I would guess about 6,000 that would be non-federally recognized. This law would have a great impact on them.

We recommend that 42 code of Federal regulations, part 36, dated September 16, 1987, pertaining to the final rule regarding the final rules governing who may and who may not receive health services from the Indian Health Service be rescinded and revoked.

In addition to the people in our own area and in California, there would be several thousand more throughout the United States which we are also concerned about.

The reason that the California American Indian population would be eliminated is because they are not federally recognized, and are presently attempting to obtain their Federal recognition.

What is unique to the State of California is that the 18 tribal treaties were never ratified because of the gold that was discovered, and the white man needed to violate the land and separate it from its resources before allowing its First Americans, the American Indians, to claim their land.

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It seems like the only way that California American Indians can get their Federal recognition is through class action lawsuits, like the most recent one being the Tillie Hardwick lawsuit that included Federal recognition of two tribes in our service area—the Picayune Rancheria and the North Fork Rancheria.

We are also urging that the United States Senate should take immediate action on Senate bill 129. This action would ensure that health care services for American Indians and Alaskan Natives will not be terminated. It would also ensure that specific health care issues are addressed in order to include the overall level of health care throughout the nation to be more equal with the general U.S. population. Indian people continue to die younger because of diseases, and the rate of Indian infant mortality is still high.

In addition, if everything else fails, we urge the immediate full support of U.S. Senator John Melcher's bill S. 2382, a moratorium on the final eligibility rule in order to permit an area-by-area assessment of the impact that this final eligibility rule will have in Indian people.

In the first place, this is what should have been done before Secretary Otis Bowen, Health and Human Services, implemented legislation to terminate and eliminate Indian people, which is blatant violation of the treaties made with Indian people on this agreement to have a government-to-government relationship, which in this matter means tribal consultation, which was ignored by the U.S. Government through Secretary Otis Bowen.

Therefore we urge the U.S. Congress to rescind and revoke the final rule on health care services eligibility. This action would demonstrate a good faith effort for the American Indian.

One example of the prejudice arising from the Indian Health Service eligibility rule is the recent action taken by the State of California. The State Department of Health Services withdrew its commitment to Indian people by eliminating clinical care money for our health programs. This will affect 3,000 to 6,000 native Americans in the health care they should receive from Central Valley Indian Health Services.

Thank you for your time. [Applause.]

[Prepared statement of Ms. Martinez appears in appendix.]

The CHAIRMAN. May I now call upon Ms. Laura Manuel?

STATEMENT OF LAURA MANUEL, HEALTH BOARD MEMBER, TULE RIVER INDIAN HEALTH PROGRAM, PORTERVILLE, CA

Ms. MANUEL. I have a resolution from my health board, and I also have a cover letter to the Honorable Chairman Inouye and committee.

My name is Laura Manuel. I am a member of the Tule River Indian Tribe, and am also a member of the Tule River Indian Health Advisory Board.

Our health program has a service area of all of Tulare County.

My board is concerned with the effects the new eligibility requirements will have on Indians that are not federally recognized and the impact of the loss of health care services to this vulnerable group of people.

When the number of Indians eligible for service are reduced, the funding will probably be decreased also.

California has more tribes and more Indians than any other state, yet we receive a small percentage of dollars for health services.

A vast number of our Indian people are either terminated—descendants of federally recognized tribes, but not meeting the tribal requirements for enrollment—or are seeking Federal recognition from the Bureau of Indian Affairs, and have been for probably the last 20 years or so.

These are the people that the Indian Health Service eligibility rules will impact—men, women, children, and those in drastic need of medical care—who will not have protection of being Federally recognized as Indians, and that may not even protect us some time later on.

So there people have become a target for Indian Health Service in getting their health care cut. The Indian Health Service is seeking and has the intent to severely reduce the number of Indian people eligible for Indian Health Service funding.

We need your help in stopping this regulation.

Attached is a resolution adopted by the Tule River Indian Health Board documenting opposition to the eligibility rules.

Number one, that being a member of or eligible for membership in a federally recognized tribe; and number two, reside within a designated health service delivery area.

I'll just read the heart of it to you, which is: whereas a review has been conducted of the new IHS eligibility for health services; and,

Whereas the Health and Human Services did not provide for a long-range impact of the new eligibility rule for those California Indian families and individual who will become ineligible; and,

Whereas the Tule River Tribes strongly oppose the arbitrary decisions that resulted in the HHS new eligibility rules; and,

Therefore, be it resolved that the Tule River Indian Health Center and members of the Tule River Tribe recommend that the U.S. Congress direct HHS to rescind the new eligibility rule and proceed with the existing eligibility regulations.

End of my statement: we have too many descendants of our tribes for us to stand by and watch them lose their services because of this very stringent rule. These are rules that the Indian tribes should be making as to who should be eligible, and not Indian Health Service. Indian Health Service, in our opinion, shouldn't be making these determinations.

Thank you, Mr. Chairman, for giving me this opportunity.

[Prepared statement of Ms. Manuel appears in appendix.]

The CHAIRMAN. Thank you, Ms. Manuel.

Now, Mr. Sam Jones.

STATEMENT OF SAM JONES, CHAIRPERSON, UNITED INDIAN HEALTH SERVICES, INC., TRINIDAD, CA, ACCOMPANIED BY AMOS TRIPP, ATTORNEY AT LAW, EUREKA, CA

Mr. JONES. I'm Mr. Sam Jones. I'm the chairperson of United Indian Health Service of Trinidad, California. We service Hum-

boldt and Del Norte County. I have been on that board for 18 years.

I hope, Mr. Inouye, that you can straighten some of this stuff out so we can service all of our Indian people.

I have with me today Mr. Amos Tripp, attorney at law, from Eureka. He'll tell of the needs of our Indian Health Service.

The CHAIRMAN. Mr. Tripp.

Mr. TRIPP. Good afternoon. I'd like to thank you for this unique opportunity to testify before a group which is concerned with Indian health problems here in California.

I have been listening to the testimony all afternoon, and I am very impressed with the idea that it seems that we are all together in this in the sense that we are interested in providing health care to Indians in California. It seems like there is almost an unanimous opposition to these regulations which would limit the services to members of federally recognized tribes.

United Indian Health Service would like to go on record as also being in opposition to those regulations.

We have submitted some testimony. I will summarize it briefly, but I would also like to talk a little bit besides the testimony which we did submit.

I think first of all sometimes we get caught up in semantics, and it is one of the problems I have. I am a Cutick Indian. I am from along the Klamath River in Northeastern Humboldt County. My family had an Indian allotment. We still have that Indian allotment, and that is where we are from—that is where my family is from.

According to these regulations a few years ago I wouldn't be eligible for any services because I wouldn't be a tribal Indian. But in my way of thinking—and I think in almost everyone in this room here's thinking—they're tribal Indians. I'm a tribal Indian regardless of whether I am from a federally recognized tribe or not. I am a tribal Indian.

And I think we all think that way. We are a tribal people.

Now, the government has possibly imposed some other language that says we have to be a member of a Federally-recognized tribe. In California I guess that means a reservation. Maybe the semantics in California should be, "A member of a reservation," because I am still tribal, even if I am not from the reservation.

So that is kind of where we get into semantics. Sometimes people will be talking about tribal, and they'll say they are a tribal person because they are a traditional person, or because they do this or participate in dances or speak the langauge they are a tribal Indian. Maybe that person isn't a tribal Indian for the purpose of Federal definitions, but they are still tribal in their mind, and so they will say they are.

Oftentimes some other people will say they're tribal. They may mean something different.

Semantics is a real difficult problem in California. It is a very difficult problem, and it is something which has its basis in the Federal dealing with the Indians of California, and I think that is what almost everyone has been talking about today.

The problem in California isn't the Indians, it is how the Indians have been dealt with. And California is a unique State. It is

unique. There are more aboriginal Indian tribes in California than any other comparable land-size area in the United States.

There are tribes that were out in Humboldt and Del Norte Counties—the service area of United Indian Health Services—I will say it is also unique in that in those two county areas we have more aboriginal Indian tribes in those two counties than any other comparable land-size area in the United States, and we deal with that. They are a tribal people. They are not all federally recognized, but they are all tribal.

And so it is a unique situation, and people have alluded to why we got in the situation that we're in. I think it kind of has its roots, in a sense, in the Federal Constitution, which states that Congress shall have the power to deal with foreign nations, states, and Indian tribes, but they don't define Indian tribes.

So we know who we are. The Federal Government didn't know who we were when they started dealing with us. They dealt with us by 18 treaties which they refused to ratify. A few years later they passed legislation which authorized military reserves in California, Nevada, Arizona, New Mexico, or the State of Utah with the idea of being removable.

A few years later, in 1864, is passed law that allowed for four reservations in the State of California, again being with the idea that all the Indians in the State would be removed to those four reservations. That didn't work.

A few years later they passed additional legislation which allowed for purchase of lands for homeless Indians. This is the basis for the rancherias which exist in California. There are approximately 90 rancherias in the State of California today, and still that doesn't cover everyone.

There were over 2,500 public domain allotments throughout the State of California made to Indians who were members of tribes for which no reservation was created—and, again, that is a Federal statute. And, again, it still doesn't cover everyone.

It is just a real unique situation in California, and it hasn't been a problem so much until recent legislation which finally started trying to define Indian tribes.

The Indian Self-Determination Act was the first attempt to put a formal definition to what an Indian tribe is, and it stated something to the effect that an Indian tribe means any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

The way I read it is that if you are an Indian group and dealt with by the United States eligible for programs, then you fit within this class, and if you are a member of an organized group, then that is a tribe.

In some way it is kind of a ridiculous analogy, but in some sense it is no worse than what the United States has created on the other hand.

So, for example, if the Indians in the two or three counties decide to organize for the purposes of providing health services to the peoples in those counties, in one real sense—I'm not necessarily proposing it—but in one real sense that organized group could be con-

sidered an Indian tribe for the purpose of delivering health care services. It fits the definition.

So California is unique. There is no other way around it.

The history which we have probably sets the precedent for dealing with establishing the eligibility for Indian Health Services in California.

There is, like I mentioned—when I first started I mentioned that the Federal Constitution is setting up the responsibility of Congress to deal with Indian tribes. If we look at the Congressional manner of dealing with Indian tribes we will probably find a precedent for establishing those eligibility requirements.

Thank you. [Applause.]

[Prepared statement of Mr. Tripp appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Tripp.

Now we have Ms. Sandy Hamilton-Hoagland.

STATEMENT OF SANDY HAMILTON-HOAGLAND, BOARD MEMBER, CHAPA-DE INDIAN HEALTH PROGRAM, AUBURN, CA

Ms. HAMILTON-HOAGLAND. Mr. Chairman and members of the committee, as a designated representative of the Chapa-De Indian Health Program Board of Directors, I am responding to the proposed eligibility regulations for health care services provided by Indian Health Services.

There appears to be much confusion and controversy regarding eligibility, thus creating major issues that many Indian people have to face.

To be put in a position to have to take sides on an issue of "what Indian person should receive health care" is somewhat bewildering. I am still in awe that regulations stipulating new eligibility requirements for Indian people were even proposed, passed, and scheduled to go into effect (without consulting with the people for whom these regulations would directly affect).

I suppose the biggest nightmare concerns the fact that the regulations were made by bureaucrats who don't know what it is like to "be Indian." I am afraid for the Indian people; Why are we still having to defend "being Indian"; why are we still having to "justify being Indians" and here today proving our "Indianness" to your committee?

At hand are issues that create dissension amongst our own people. There was a time that all Indian people lived and worked together—a period when our ancestors were all earth's children. Now, however, we are faced with "land-based Indians" versus "no-land-based Indians," federally recognized versus non-federally recognized.

We, as Indians, are competing against one another for basic health services; services that in years past were available to us all, regardless of our status.

What about the terminated Indian tribes? Does it mean anything to anyone here? Does anyone understand how a government can one day recognize a tribal entity, but then, through a legislative process, completely terminate or unrecognize a whole tribe of Indian people?

How can you terminate a group of people whose ancestors, whose customs, whose legends, whose language, and beliefs, have been in existence from the beginning of time?

How can you tell an Indian that despite the fact his ancestors were here 10,000 years ago, that despite the fact his tribal customs and his songs and dances are still practiced and passed on today, that this Indian is not an Indian because his tribe was terminated years ago?

How can you really take away an Indian's identity?

I ask, again: What about these terminated Indians? They are still Indians, but because they have no Federal recognition or land base, you say they are not.

These people will lose their basic health services because you say they are not Indians.

We have been given a grace period—a time in which you are to enroll in a federally recognized tribe. Those who can be enrolled will have long waits—one to two years—because many tribal offices are backlogged with researching ancestral records. Six months of a grace period doesn't mean much!

For some of our Indian peoples, enrollment in their tribes depends on whether the tribe is accepting enrollment applications. Some tribes may not be open to enrollment, so how will these people have their health needs met?

Some tribes have no enrollment procedures at all, and to establish such procedures would require BIA involvement, regulations, determinations, and even more bureaucratic blocks. Why the continued harassment of determining Indian eligibility, and why are we still having to "jump through the hoops?"

In our Chapa-De program service area—which includes the four counties of Placer, El Dorado, Nevada, and Sierra—there are approximately 4,000 American Indians. We are gravely concerned over the eligibility requirements proposed, because we estimate only 2,500 Indian peoples will be eligible to receive direct and contract care if the Final Rule is implemented.

What about the remaining 1,500? Who will be able to serve their health needs?

In your efforts to streamline funding, you are excluding people and tribes that are and always have been indigenous to California.

I have heard the new eligibility regulations were brought about because of abuses to the existing system. To me it is abusive to require continued bureaucratic blocks and obstacles to Indian people, making them prove their "Indianness."

It is abusive to deny health care services to a group of indigenous people because of *your* system of Federal identity.

Speaking in behalf of the Chapa-De Indian Health Program Board of Directors, we wish to go on record that we are opposed to the new eligibility regulations, and demand you take a second look at the Indians of California.

Thank you. [Applause.]

[Prepared statement of Ms. Hamilton-Hoagland appears in appendix.]

The CHAIRMAN. I thank you very much.

Our next panel consists of: Mr. Sonny Hendricks, Director of the Tuolumne Rural Indian Program; Mr. Paul Martinez, Board

Member of the Sonoma County Indian Health Project; Ms. Theresa Feliz, Chairperson, United Pomo Indian Health Clinic; Ms. Josephine Steward, Vice-Chairperson, Shasta-Trinity Rural Indian Health Program; and Mr. Harold McEnespy, Chairperson, Northern Valley Indian Health, Inc.

Mr. Sonny Hendricks.

STATEMENT OF SONNY HENDRICKS, DIRECTOR, TUOLUMNE RURAL INDIAN PROGRAM, TUOLUMNE, CA

Mr. HENDRICKS. Mr. Chairman and members of the committee, I, Sonny Hendricks, as a California Indian, appreciate the opportunity to present testimony before you on the Indian eligibility issue, which is of great importance to us as Indian people of California, because we have lived with and are experiencing the difficulty of receiving adequate health care in our communities.

If this eligibility rule is implemented as proposed, thousands of American Indians in California will be completely excluded from receiving health care services simply because they reside in areas that have not been designated as service delivery areas, or because they have not been included on the membership roles of federally recognized Indian organizations, even though they are descendants of members of that particular tribe.

The deletion of Indian ancestry clause in the eligibility rule, which specified a descendant of the tribe, should not have been deleted because there is a distinct difference in the meaning of a descendant and member as it applies to an Indian tribe.

The difference is that descendant indicates ancestry, and member indicates enrollment. Not being enrolled does not necessary exclude one's ancestry as an Indian person.

The Bureau of Indian Affairs, the agency previously responsible for maintaining enrollment records of Indian people, has now given that responsibility to the local tribes to individually maintain their current membership enrollments, without realizing that in order to do so the tribe is faced with an astronomical task of developing a membership which, in order to be completed, would require access to personal records and involve a development process which could take anywhere from months to years to complete.

Many tribes lack the capability and resources to proceed with the development and maintenance of their tribal roles.

The BIA presently has no record of the number of Indian children born since the last enrollment taken in 1970.

The Indian Health Service has just recently implemented an Indian patient registration system through the local Indian health programs in California which list the most current population, but even this does not include those that reside outside of the program's service delivery area if they are presently not utilizing the program services.

In California there are nine counties that are not included in the health service delivery areas that have significant Indian populations, as indicated in the 1980 census. Many of them are descendants from California tribes and are beginning to seek direct health care services from the tribal health program.

There are thousands of Indian people that do not have the opportunity to establish membership in a federally recognized tribal organization due to the sovereign right of the tribal groups to establish criteria and conditions such as blood degree, residency requirements, descendancy clauses, and so forth, which prohibit or restrict many from being eligible for membership.

Although Indian groups not currently established as federally recognized have a formal process through which they may petition for such recognition through the BIA's Federal acknowledgment program, there are presently groups—at least two in my area, the Ion Band of Miwok Indians and the American Indian Council of Mariposa County—that have been petitioning the Federal Government for many years and, to date, have still not received any acknowledgment or decision as to their Federal recognition status.

The number of Indian people that would choose not to establish their membership if eligible would be minimal, but even if they should not, they should not be penalized by being excluded for health care, as indicated under the proposed eligibility rule.

If a tribal member, for whatever reason, has to move beyond the geographical range of the Indian Health Services, they should not automatically be excluded from receiving health care.

At this time my conclusion is that the proposed eligibility rule should be withdrawn in its entirety, and that Congress should, without any further delay, enact the pending S. 129 legislation, which takes into consideration the present status of the California tribes, and which specifically includes language necessary to address the provision of health care services, and that the nine counties in California which are presently now excluded be designated as part of the IHS health service delivery area.

Thank you. [Applause.]

[Prepared statement of Mr. Hendricks appears in appendix.]

The CHAIRMAN. Thank you, Mr. Hendricks.

Mr. Martinez.

STATEMENT OF PAUL MARTINEZ, BOARD MEMBER, SONOMA COUNTY INDIAN HEALTH PROJECT, SANTA ROSA, CA

Mr. MARTINEZ. My name is Paul A. Martinez, and I live in Santa Rosa, California, I am the vice-chairman of the Sonoma County Indian Health Project.

My main purpose today is to ask the panel why we are not identified as Indians? What is the definition of an Indian? It has been puzzling me all these years. I am a man 69 years old and still don't know my nationality. It seems that the Federal Government doesn't know, because it keeps us in turmoil.

It seems to me that the Federal Government does this for a purpose; otherwise, if we, as Indians of California—we have the largest population of people of our nationality in this State. If we could all gel together we would have a good force of doing things together. So the government is wise in keeping us divided—especially with the BIA, as the speaker before me mentioned that they don't even take numbers of Indians that were born recently. It is pathetic how the BIA works against the Indians so they keep us divided.

In Santa Rosa, in the project that I am with we have approximately 4,000 people living in that county, and approximately 3,000 of the 4,000 are with our project. If we lose our eligibility, that means the 3,000 people that are with our project are going to be going back to the county for their health care, and this is pathetic because I believe as first citizens of this country we are not foreigners. As the Federal Government brings out that we were naturalized in 1934, then I was a foreigner when I was born, and that is strange when my grandfathers were here for centuries, and also my people were here for many years before any other foreigners that ever came to this country.

With that I'd like to thank you, Mr. Senator Inouye and the panel. Thank you very much.

[Prepared statement of Mr. Martinez appears in appendix.]

The CHAIRMAN. Ms. Feliz.

STATEMENT OF THERESA FELIZ, CHAIRPERSON, UNITED POMO INDIAN HEALTH CLINIC, UKIAH, CA

Ms. FELIZ. Senator Inouye and the committee members, I am Theresa Feliz, the chairperson for United Pomo Indian Health Clinic Service of Ukiah, California. I am a Hutland Pomo Indian of the Hutland Rancheria.

I come here today to bring before this Senate select committee the problems and the unjustly denials of the IHS health care service and financial assistance for our clinic who provides general care to all low-income Indians in Mendocino County.

Since 1983, the United Pomo Indian Clinic has been denied all Federal funds for Indian Health Service. The director of IHS, Mr. T.J. Harwood, has refused to give us the Indian Health Service contract for the Manchester Cornorina Band of Pomo Indians who are a federally recognized tribe.

Although we have on file their resolution dated June 5, 1985, duly designating United Pomo Indian Health Service to negotiate and to provide comprehensive health services for the Cornorina Manchester Tribe, IHS still denies the Federal funds.

Now, at the present time, the State Rural and Community Health Division chief, Mr. William Abert, has denied our clinic the State funds for fiscal year 1988 and 1989 because IHS does not let us receive Federal funds.

United Pomo Indian Health Service should not be penalized for failure by the United States Government, which has denied the access to Federal funds. The denial was based on the concept of IHS designating service areas that will soon be tested in court.

Mr. William Abert, chief of the Rural and Community Health Division, says State funds should be supplemented to those available through the Federal Government. This statement of legislative policy does not require each recipient to have an active Indian Health Service contract. This legislative intent was more global in nature and should, perhaps be better stated that State funds were not to supplant Federal funds. The chief of Rural Division is being very narrow about this point.

Being given the existence of the tribal resolution for Manchester Cornorina Band of Pomo Indians establishing their nonparticipa-

tion at the other clinic, consolidated health project continuation of funds for dental service to United Pomo in no way duplicates or replaces any commitments made by the Federal Government.

We are the only dental clinic and outreach program in Mendocino County that serves the majority of the non-federally recognized Indians and the terminated Indians.

As the man said before, what does "terminated Indian" mean? How can the Federal Government or the Federal courts take their identity away from them? I am in that category. That is why I speak very strongly for it.

I firmly believe that all California Indians should be eligible for health care services, not just the few that reside on reservations or work in the clinics.

I plead and ask that you, the Select Committee, do a thorough investigation of the Bureau of Indian Affairs, the California Central Agency, and the Indian Health Service administrative policies so that all the Indians of California could be treated equally and be given a fair and just health care without the inter-bureaucracy of BIA and IHS, or the tribal politics such as the Indian Health Service has been doing.

Our United Pomo Indian Health Clinic of Ukiah needs your full support so that the so-called terminated or non-federally recognized Indians do not go by the wayside like a stray animal.

This is the first time in history that I have seen the Select Committee come this far to speak to the Indians about the problems in California.

I thank you, Senator Inouye, and the committee members, for your consideration in allowing me to speak before you in behalf of the United Indian Health Clinic in Ukiah. It has truly been an honor and a privilege to be allowed the opportunity to speak before you today, and I would like to thank you very much for your kind attention and consideration.

Thank you. [Applause.]

[Prepared statement of Ms. Feliz appears in appendix.]

The CHAIRMAN. Thank you very much, Ms. Feliz.

Ms. Stewart.

STATEMENT OF JOSEPHINE STEWART, TREASURER, SHASTA-TRINITY RURAL INDIAN HEALTH PROGRAM, REDDING, CA

Ms. STEWART. My name is Josephine Stewart. I would like to make a correction. I am not the vice-chairman of the board of our health clinic, I am the treasurer.

I would like to thank this committee for coming here and giving us the opportunity to speak before you and to tell you our troubles.

There are a lot of things that I had in mind to say, but they have all been said, I don't want to repeat them, but those are our sentiments, too.

The way the government runs the Indian affairs creates confusion for a lot of people, it creates disharmony, and it creates coveting other people's territories.

We all talk about our sovereign Indian rights, but a lot of us fail to come through with them.

In my case, like I said, everybody has said what I would like to have said, and I'm not going to repeat it, but I just have a few little things that I would like to say.

When the government created the rancheria lands, only those Indians who had the opportunity to move onto those lands are not called recognized Indians. Those of us who did not have the opportunity, or our family fathers and mothers didn't have the opportunity to get on those rancheria lands were left out. So we're called non-recognized Indians. We're called non-land-based Indians, and if we are not land-based, we have more problems to comply with.

Just because these people were the first ones to get on these pieces of lands set aside for Indians of California to occupy those lands for homeless Indians, we all know that they were too small to accommodate all the Indians of California. They couldn't all get a piece of that land. Some of that land was not even fit for Indians to live on. They didn't have any water, any facilities of any kind that a person would need to occupy a piece of land like that, and the government sure didn't come forth and try to put those thing on there for people to live on. So a lot of that land laid idle.

What I am trying to say is that in 1944 the Indians of California received a $17 million judgment, and out of that $17 million judgment there was a $12 million offset, and out of that $12 million offset, all the Indians of California—young ones, sick ones, old ones—whoever was eligible to get a per capita of that judgment, before they got it $1.25 an acre for every rancheria land in the State of California was deducted from that pay rule, and we all paid for that land, but we cannot enjoy it, because we are not land-based, we don't live there, we are not federally recognized, but they took it from my paycheck, from my mother's paycheck, my sister's paycheck—a lot of you people here got that.

But we are not eligible to be on those reservations. Now, this creates a unique situation in our area. I don't know what it does to other areas, but in our area—I'm from Shepp's County—we have no land-base, but we were promised land-base up there, and we are going to fight for that piece of land-base, too.

And so the Redding Rancheria went out of Indian status and back in again. The Big Bend Rancheria was created for homeless Indians. Today the government has given the Big Bend Rancheria—it took an Act of Congress to get it—they gave it to the Pitt River Nation and said that it belongs to them. Well, my aunt lived on was a Wintu. She was on that piece of land. There are only two Pitt River people on that land registered besides the Wintu when they had a reorganization, yet they didn't consider the Wintu part, they gave it to the Pitt Rivers.

So we have Redding Rancheria, who has Pitt Rivers and other tribes and Wintus, but they haven't considered giving us the Redding Ranch so we could have land-base.

So in our area we cannot get a letter of support from the rancheria up there at Big Bend because the Pitt River says it belongs to them. The Redding Rancheria says the only people who are eligible are them that live on the rancheria land, so we can't get a letter of support for our clinic, and I think we have a real nice, good clinic.

If either one of them take that clinic over, those of us who are not land-based will be eliminated if this act goes through. We won't have any kind of services for our people. Not everybody is on welfare. Not everybody has insurance. It will be detrimental to their health—the Indian people's health.

They don't get very good health service as it is. They are limited. They can't get eyeglasses and a lot of other things.

Trinity County, because it has no land-base whatsoever, if this act goes through would be completely wiped out from Indian Health Service.

Therefore, I say that the government wants us to be recognized Indians, they want us to take each little group and say let's get together and let's register our people so we can get recognized.

They did the whole State with one wave of the hand. Now, why can't they just wave their hand again and recognize the whole State again? Why do each of us have to go through this process of being recognized? We all know who we are, but the government separates us and then it creates dissention amongst the Indian people for different things that we are all entitled to. We shouldn't fight.

I appreciate these Indian people who do have reservations and who came up here and say we want to share. I really love those people for saying that, and I know that our people who are not going to be qualified if this goes through for Indian Health Services are going to see a worsening of their health.

We have people who have diabetes. If they can't get Indian Health Service they can't even afford to buy the medication.

Look at us. We're all fat. We don't even have enough money in our health services to help us to lose this weight, and we're not getting good health services at all. But I appreciate what we are getting, and I hate to lose any part of it.

I'd like to thank you for listening and for coming to California. Thank you. [Applause.]

The CHAIRMAN. Mr. McEnespy.

STATEMENT OF HAROLD McENESPY, CHAIRPERSON, NORTHERN VALLEY INDIAN HEALTH, INC., OROVILLE, CA

Mr. McENESPY. Thank you, Mr. Chairman, for giving us the opportunity to come here today and testify in regards to this matter.

My name is Harold McEnespy. I represent the Northern Valley Indian Health Project. I am the chairman of that group. We have a service area of eight counties in the northern part of the Sacramento Valley here. We have an 18-member board of directors, six of those people are chairpeople of rancherias served by our area.

The controversial Indian health eligibility rule would be very detrimental to people in our service area because approximately 75 percent of them would not be eligible, and there are about 8,000 Indians in our service area.

We will also want to support the national 1988 workshop, which was held from May 2 to May 6, and where 300 tribal participants from all over the country unanimously supported the withdrawal of this rule and requested Congress to place a moratorium on the implementation of any changes in IHS eligibility regulations.

I would like to request the Senate Select Committee on Indian Affairs to continue to request more dollars toward clinical and preventive health services, health manpower, urban projects, tribal management, tribal direct operations, facilities construction, and so forth.

It would help to bring the health standards of the Indian people up to the highest possible level in parity with the rest of the Indian people who enjoy such benefits.

I want to thank you. [Applause.]

[Prepared statement of Mr. McEnespy appears in appendix.]

The CHAIRMAN. Thank you very much.

Before calling on the next group, I would like to report to you that when the committee heard of the IHS regulation on eligibility we immediately submitted an inquiry as to the reason for this new regulation.

We were assured that this new regulation was not based upon abuses by beneficiaries. I decided to tell you this because some of you have suggested that the new regulations may have resulted from abuses.

The reason for the regulation was very simple: the Office of Management and Budget just wanted to cut down the cost of Indian health. That's all. And we are not going to let them do that. [Applause.]

Our next group: Ms. Donalee Brown, testifying in behalf of The Honorable Doris Renick, Chairperson of the Coyote Valley Tribal Council; the Honorable Phil D. Hunter, Tribal Chairman, Tule River Tribal Council; the Honorable Ron W. Goode, Chairman of the North Fork Mono Tribe; and Ms. Phyllis Harden, Chairperson, Upper Lake Band of Pomo Indians.

Ms. Brown.

STATEMENT OF DONALEE BROWN, TESTIFYING ON BEHALF OF THE HON. DORIS RENICK, CHAIRPERSON, COYOTE VALLEY TRIBAL COUNCIL, COYOTE VALLEY RESERVATION, REDWOOD, CA

Ms. BROWN. Yes; I want to thank you, Senator Inouye, and your committee for being here today. We welcome you to California.

I am sorry that our chairperson wasn't able to make it today. She is here in Sacramento, but she got sick.

I would like to read her statement.

The proposed rulemaking that the Department published on September 16, 1987, regarding eligibility for services from the Indian Health Service would remove thousands and possibly hundreds of thousands of Indians residing in California and other states from the population eligible for the IHS services, 42 CFR, part 36 final rule, volume 22, number 179, page 35044FF.

This proposal would establish membership in a federally recognized tribe as the basis for eligibility for federally sponsored health care, compromising tribal sovereignity.

By ignoring the historical evolution of Federal Indian relations unique to California, this proposal would lead to the termination of an estimated two-thirds of the currently eligible Indians in the State from IHS-financed care.

Doctor Rhoades misleads us in saying this rule is not intended to "jerk the rug" out from under these Indians.

We recognized, as the recent Office of Technology Assessment study indicated, that the current policy regarding eligibility for IHS services is in need of clarification. However, we do not equate clarification with wholesale termination, as the proposed rule does.

More fundamentally, we believe that the judgment as to which Indians should be eligible for IHS service care is exclusively a responsibility and prerogative of Congress.

In our view, it is simply inappropriate for the Department to undertake such a fundamental reconstructing of Federal tribal relations, whether in California or in any other IHS area. Yet, that is precisely what this proposed rule would do.

This is a radical proposal. Congress has long allowed the tribes to determine who their members are, and, therefore, who is eligible for IHS services based on membership in that tribe.

By imposing uniform Federal acknowledgement requirements, the proposed rule would cut off IHS services eligible to members of over 20 tribes, including one in our immediate area.

More fundamentally, the proposed rule would change the basic terms of Federal tribal relationship. It has long been settled that special Indian programs are based on the unique political relationship between the Indian tribes and the Federal Government—Morton versus Mancani, 417 U.S. 535, 1974.

The imposition of the proposed requirements would shift the grounds of the relationship from political recognition to non-recognition; hence, IHS ineligibility of many thousands of Native American Indians, our relations and neighbors, until their tribes are restored.

Let us share with you just a few of our concerns about the impact of this proposed rule on California. Because the proposed rule does not contain any quantitative analysis of its impact on various areas of the country, we are using our own estimates of the impact on various areas of the country. We are using our own estimates of the impact, based on discussions with California Indians and on the information contained in the OTA report, Indian Health Care.

According to the OTA, based on the 1980 census data, over 216,000 Indians live in California. Of these, the IHS estimates that only about 75,300 are eligible for its services this year. (The remainder are considered "urban" Indians, and under current IHS policy, are ineligible for direct or contract care services.)

Of the IHS service population, roughly 22,100 are members of California federally recognized tribes. As you know, the reason that there are more than 50,000 IHS-eligible Indians in California who are not members of California federally recognized tribes is that past Federal policies complication of tribal land and unilateral termination of tribes from Federal recognition have placed these individuals in involuntary legal limbo.

The effect of the proposed rule will, in all likelihood, terminate the eligibility of virtually all the currently eligible California Indians who are not members of federally recognized tribes, including many who are well-known as political, social, and cultural leaders throughout California.

This would amount to about 50,000 California Indians who are roughly two-thirds of these currently eligible for IHS services.

The primary reason for this massive termination is proposed rule's reliance on the Federal Government's past misdeeds.

A significant number of currently eligible Indians will not be able to meet the proposed requirements that they be a member of federally recognized tribe, if at all, for decades unless Congress acts to either accelerate the Federal acknowledgment process, or recognize tribes by special status.

Not only does the proposed rule ignore the historical evolution of Federal tribal relations unique to California, but it completely fails to address the consequences of the mass termination it would work.

The rule makes absolutely no provision for those Indians who are to be terminated, either in California or elsewhere. Instead, it merely asks for public comments regarding the steps the IHS might take "to facilitate the transition for persons who may no longer be eligible under the new rules."

Just where does the Department expect 50,000 or so California Indians who will lose their eligibility for basic health services to "transition" to?

The proposed rule is completely insensitive to the chaos that termination will create for the California tribes who contract with the IHS to run their own health programs under the Indian Self-Determination Act.

These tribal contractors will have to distinguish between tribal members who have requisite BIC card, and those who do not, in effect regulating the latter group to second-class status.

Doctor Rhoades cannot assure a "humane" or "sensitive" transition for these people. Shasta county has notorious problems with its budget for health care delivery. Where are Shasta County Indians to turn?

While we are primarily concerned about the impact of the proposed rule on California, we also believe that it is inappropriate for the Department to unilaterally alter long-standing Federal eligibility policy by Indian health programs throughout the country.

As the OTA has exhaustively documented, the health status of American Indians and Alaska Natives remains well below that of United States population as a whole.

Terminating thousands of Indian men, women, and children from eligibility for basic health services from the Indian Health Service with no provisions for alternative sources of care can only make matters worse.

We urge that you immediately withdraw this badly-misguided proposal.

Coyote Valley was supportive of the letter of June 25, 1986, from the Honorable Otis Bowen, Secretary of Health and Human Services from the Urban Indian Health Board, Incorporation, in San Francisco, as prepared by Al Logan Slagel.

The newly proposed rule, according to Doctor Rhoades' statement of June 21, 1988, would eliminate 125,000 from service eligibility, yet his statement also says it would add 125,000. This is his idea of assuring uniformity and equity.

The proposed IHS eligibility regulation threatens the tribal sovereignty of tribes that have lineal decendancy as enrollment re-

quirement for membership into their respective tribes, because their trust relationship with the United States Government has been ignored.

We find it inequitable that such a rule should affect California Indians so disproportionately. Therefore, Coyote Valley Reservation requests that a moratorium be placed on implementing the IHS proposed eligibility requirements, thus allowing individual tribes to exercise their tribal sovereignity concerning tribal enrollment and service delivery areas, and to assure the integrity of Indian health programs in California.

Sincerely, Doris Renick, Chairperson, Coyote Valley Tribal Council, Coyote Valley Reservation.

Thank you. [Applause.]

[Prepared statement of Ms. Renick appears in appendix.]

The CHAIRMAN. Thank you very much.

Chairman Hunter.

STATEMENT OF HON. PHIL D. HUNTER, TRIBAL CHAIRMAN, TULE RIVER TRIBAL COUNCIL, TULE RIVER INDIAN RESERVATION, PORTERVILLE, CA, ACCOMPANIED BY MARIE WILCOX, SECRETARY, WUKCHUMNE COUNCIL

Mr. HUNTER. Mr. Chairman, my name is Phil Hunter. I am chairman of the Tule River Tribe.

Thank you for giving us the opportunity to speak for our tribe today.

I also want to take a minute for Marie Wilcox here from the Wukchumne Council, and their people are unrecognized, so I'd ask to give her some of my time if I don't take too long.

But, Mr. Chairman, we are in total support of the withdrawal of the Federal rules that mandate changes in Indian Health Service eligibility guidelines. We definitely feel this new rule reflects poor public health policy, is not cost effective, and jeopardizes tribes' ability to effectively manage their own health care program.

We feel that the tribes must have firm and accurate data about the economic, social, and cultural impacts of the new regulations before any changes go into effect.

This rule has been poorly researched in terms of impact, and we believe the Secretary of Health and Human Services must repeal this rule on eligibility.

The Tule River Tribe, which adopted a constitution and by-laws in June of 1935, and which was approved by the Secretary of the Interior on January 15, 1936, passed unanimous a resolution earlier this year. The resolution recommends that the U.S. Senate directs the Department of Health and Human Services to rescind the new eligibility rule and proceed with existing eligibility regulations for California, and recommends the U.S. Congress to direct that DHHS, in conjunction with the Bureau of Indian Affairs, California Tribal Health Association, California Indian Health Board, Inc., and tribal governments, to conduct a study on the long-range impacts of the loss of health care services to non-federally recognized California Indians.

Our resolution also recommended that Congress direct DHHS to put aside all actions to establish new service areas in California

until an impact study has been made, and that Congress study the DHHS newly-proposed service area, and that Congress direct the DHHS to meet with tribal governments to get their approval of the DHHS consultation process and that the written documents be part of the final report.

The IHS eligibility regulations only adds to the tribes' problems of having service excluded due to lack of tribal consultation, along with inadequate funding levels and other factors which mitigate against having their needs met.

Another part, too, Mr. Chairman: we also have a Tule River alcohol and drug treatment center on our reservation, and this program, too, will be severely impacted with the implementation of this IHS eligibility regulations.

We also recommend that the Senate Select Committee initiate legislation to abolish this adverse IHS eligibility regulations. The tribe looks upon this program as exercising our tribal right to manage our own contracts through Public Law 93-638. This program has never been consulted by Indian Health Service/California area office director as to the potential impact of the IHS eligibility final rule.

Our Tule River alcohol program receives Native American clients from every part of our Indian country, and proof of Indian ancestry has been the criteria for eligibility if clients are not enrolled, and without this referral the reservation program would have to close its doors.

Our alcohol program also has interest in applying for alcohol and drug regional treatment program dollars, and for over a year Indian Health Service and California Area Office has not kept our program informed or consulted us about the Omnibus Drug Bill, Public Law 99-570, the regional treatment center.

You can see, Mr. Chairman, that tribes and tribal programs in California are not being consulted and trained according to Public Law 93-638, self-determination regulations, for the reasons stated above, and we request additional Senate Select Committee field hearings to be held concerning the non-compliance in carrying out both Indian Health Service/BIA fiduciary responsibilities to the tribes of California.

Mr. Chairman, I liked your comment earlier this afternoon that you would be back to listen to tribal concerns.

Thank you.

And also, Mr. Chairman, on behalf of the Tule River Tribe of California we respectfully request that your committee, after hearing the California tribes testimony today, that you do not support the Indian Health Service final eligibility rule, and that Congress rescind this rule.

Thank you. [Applause.]

[Prepared statement of Mr. Hunter appears in appendix.]

The CHAIRMAN. Thank you.

Ms. Wilcox.

Ms. WILCOX. Mr. Chairman, my name is Marie Wilcox. I am Secretary for the Wukchumne Council, and we are the Wukchumne Council of Tulare County located in Central California.

Our creation stories tell us that we have been here since the beginning of this world. We were created from the mud and water of the Mother Earth here. We are the caretakers of this land.

We are here to show our concerns regarding the eligibility requirements proposed by the Indian Health Services. This criteria will be leaving out many California Indians because we are not Federally recognized.

Indian clinics here in California will be able to treat Indians from out of state, but will be denying many native California Indians.

The mere fact that our California treaties were never ratified singles us out among Indian tribes across the United States. Why shouldn't California Indians be given the same benefits as Indians nation-wide?

California Indians were recognized by the Bureau of Indian Affairs through State roll numbers. Our people were put on reservations or given Federal trust land allotments. Now why is the Indian Health Services only recognizing reservation Indians?

Of the Indians that once lived on the reservations, many had chosen to move to the cities to find work and for other economic reasons. Now their children and grandchildren are no longer eligible to be enrolled on those reservations. Why are the descendants of these hard-working Indian people being denied?

Many of our people are considered to be low income—many below poverty level. We have come to rely on our local Indian clinics where we get medical services, dental services, social services, and transportation. We cannot afford to pay for doctor visits, prescription drugs, or dental services. What are we supposed to do when our elder people get sick? What are we supposed to do when children need dental work? Where are we supposed to turn to?

We are proposing that Indian Health Services recognize any descendants of Indians with a California State roll number, or entitled Federal trust land allotments. We feel the Federal Government owes us that much to—continue our health benefits for the pain and suffering that our ancestors endured over the years.

Thank you for your time and consideration of this letter. We need and appreciate any support you may give to the native California Indian people raised here on this land and our generations to come.

Thank you.

The CHAIRMAN. Thank you, Ms. Wilcox. [Applause.]

The Chair recognizes Chairman Goode.

STATEMENT OF HON. RON W. GOODE, CHAIRMAN, NORTH FORK MONO TRIBE, NORTH FORK, CA

Mr. GOODE. Good afternoon.

I am Ron Goode, Tribal Chairman of North Fork Mono.

First of all I commend your patience and your endurance.

Speaking on behalf of the North Fork Mono Tribe we welcome you to California. It is good to see our Congressional leaders come to hear the Indian at home. Unfortunately, we gather not on a positive note, nor do we discuss new business. The issues we are

faced with today are the same issues we have been negotiating for over 138 years.

In California the tribal groups reference is the unratified treaties of 1851. The recognition bestowed upon our ancestors at that time was to ensure a workable government-to-government relationship—a treaty of peace from the California Indian in return for townships, schools, churches, medical, land—including farm livestock and tools—as well as a local government for better communication. Yet, that communication never came during the next 53 years that the unratified treaties were tabled.

Not until they were revealed and the enactment of the 1906 Indian Law Act was established did the U.S. Government begin a government-to-government relationship. That non-recognition of California Indian tribal groups began when the government purchased rancheria land for the so-called homeless Indians, meaning Indians who had not already acquired lands through other means such as the Homestead Act of the 1880's or the Indian Allotment Act of 1906, itself.

The Federal recognition status bestowed to the rancherias was due to the Federal land-base. From this point forward the U.S. Government has dealt with the reservations and rancherias foremost, but included Indians not on, but in association with, the Federal land-base.

The issues of tribal recognition, education, health, housing, land, economic development, sovereign rights, and religious freedom rights, have all been dealt with on a separate basis, each with its own contradicting resolutions, each resolution addressing what constitutes an Indian.

The American Indian, the only member of the human race still trying and having to prove who they are: a people who has more numbers attached to them then Carter has pills, and whose numbers add up to more than what our president has in knowledge of the native people in America. [Laughter.]

Today we are being denied our sovereign rights, our educational benefits, our religious freedom rights, housing benefits, robbed and swindled out of our land, limited in our economic development—our people have the highest percentage of unemployment in the United States.

Now our gravest pitfall of all is upon us. We are about to lose our rights for health care.

When the Indian is broke he goes hungry. Without a house and land he has only the street to turn to. Without his religion he is not of spirit. Without an education he has no understanding of today's society. With poor health he cannot walk proud. Without sovereign rights he is a man who is broken.

We are few today, but we are strong. Yet, we can only exist so long on our will, alone. The programs which have been implemented over the last 20 years have been effective. The Indian Health Service has created a change in the health statistics in our elders, youth, and babies, but the heart attack age is still at its lowest among the peoples of America. This is no time to give up on our Indian Health Service, as there is a very high need for these health care provisions.

We are a non-federally recognized tribe of 800-plus members. We are currently in the application stage. We are petitioning the United States Government for reinstatement of Federal recognition.

It is our recommendation the eligibility requirement or criteria in the final ruling of the eligibility eliminating non-federally recognized peoples from the Indian Health Service be rescinded and revoked.

Also I would like to add here that I have been hearing about a moratorium. I say no. The fact is: for Federal acknowledgement it takes 4 to 6 years for research, and it is taking another 6 years for evaluation.

We had the evaluators from the Bureau of Federal Acknowledgment and Research Committee come out recently. The average time is 20 years for Federal recognition. Right now we have over 25 tribes in California that are applying for Federal recognition—somewhere in the vicinity of 40,000 to 50,000 people.

In 1980 the Bureau says there are 22,000 Indians in California who are registered. Well, I know in my tribe only 40 percent registered for the 1980 census.

According to the evaluators, it is costing us $68,000 for the government to evaluate each one of the tribe's application for Federal recognition. There are over 100 in America.

It costs, on an average—and this is according to the evaluators—$100,000 to $150,000 to apply for tribal recognition. None of us have that kind of money.

We need the health services.

Thank you for backing us. [Applause.]

[Prepared statement of Mr. Goode appears in appendix.]

The CHAIRMAN. The Chair recognizes Chairperson Harden.

STATEMENT OF PHYLLIS HARDEN, CHAIRPERSON, UPPER LAKE BAND OF POMO INDIANS, UPPER LAKE RANCHERIA, SACRAMENTO, CA

Ms. HARDEN. Mr. Chairman and committee members, it is an honor for me to appear before this committee to present testimony concerning the impact of the IHS regulations upon the California Indian tribes.

The Upper Lake Rancheria is opposed to the IHS eligibility regulations, and we are requesting the Senate Select Committee on Indian Affairs to initiate legislation and abolish the IHS eligibility regulations indefinitely.

The Upper Lake Rancheria was terminated through the Rancheria Termination Act of 1958 and was not restored back to Federal trust status until 1978.

The Upper Lake Rancheria received Federal recognition, but are landless as a tribe. The majority of our tribal members do not have any rancheria land to have and/or any other services that a Federal land-based tribe may enjoy.

Because particularly IHS service was brought back to California, only 37 catchment counties became IHS catchment areas—with low land base, the majority live outside the Lake County service area, and outside the 37 catchment counties.

The Upper Lake Band of Pomo Indians look at the IHS regulations as the threshold to further deny or restrict services to tribal members.

No where in Indian country has termination severely impacted Indians as it has in California. The Upper Lake Band of Pomo Indians is also experiencing delays in having their tribal governments document-sanctioned.

The Upper Lake Band of Pomo Indians' Upper Lake Rancheria is not alone in being landless or without approved governing documents to provide enrollment of potential tribal members.

The Upper Lake Band of Pomo Indians thank the Honorable Daniel K. Inouye, Chairman, Senate Select Committee on Indian Affairs for having the first oversight field hearing in California. The Upper Lake Band of Pomo Indians requests that the Senate Select Committee on Indian Affairs hold additional field hearings in California to resolve the many diverse complexities that the termination act promoted.

Thank you. [Applause.]

[Prepared statement of Ms. Harden appears in appendix.]

The CHAIRMAN. Thank you very much.

Ms. TENNANT. Mr. Senator, may I give speech along with this group?

My mother is a Tuli, and I am also. As an elder, I would like to speak at this hearing.

The CHAIRMAN. You are speaking now, so proceed.

Ms. TENNANT. Thank you.

The CHAIRMAN. We can hear you from there.

Ms. TENNANT. All right.

STATEMENT OF ELSIE ICHO TENNANT, ELDER, WUKCHUMNI INDIANS

Ms. TENNANT. My name is Elsie Icho Tennant, Elder, Wukchumni Indian. As I said, my mother is of the Tuli Tribe.

I address my testimony to the Sacramento County Board of Supervisors, all official dignitaries, tribal chairpersons, and people.

I will leave all legal jargon to the well-educated members of this gathering and speak on a more basic level.

The Indians of Tulare County have two health clinics to take care of our needs. I am asking all of you to speak or write letters on behalf of my family, the Icho clan.

In the days gone by, my grandfather, Henry Icho, was the Wukchumni Tribe Bear Dancer and last chief. I, Elsie Icho Tennant, am proud to say I am one of the granddaughters of Henry Icho.

In 1934 I was a small child when I lived at Grandpa Henry and Grandma Maggie's campsite. I remember riding in the horse and buggy with my grandparents.

One day I played hooky from school and went with my grandpa and grandma to the foothills to gather wild onions. It must have taken place in early spring when the wild onions are plentiful. We must have eaten them fresh, and grandma dried the rest to flavor the food during the winter months.

I can remember Grandma Maggie as the elder who was knowledgeable and consulted in matters of herbs, midwife, and mournful

crier at all night wakes. So you might say Grandmother Maggie was our tribe's Indian doctor.

In no way was she considered a witch doctor. My father, Bob Icho, told me we had a witch doctor. The witch doctor used all Mother Earth's resources and spoke to the Great Spirit for healings. In order for him to be controlled, the chief's wife had to be one up on him so he wouldn't poison or cast evil spells on the chief's clan.

I can remember, as a child, the dread my people had of white doctors and hospitals. They mistrusted the white doctor because at one time, didn't we have our own doctors? They thought of a hospital as a place to die.

Consequently, a lot of our people stayed home and waited until they were too sick to care when a family member took him to a white man's hospital.

This is what is good about the Visalia Health Clinic, because an Indian feels more comfortable about entering the waiting room and seeing Redskin and being helped to fill out forms by an Indian.

For the families that do not live on a reservation, it is a hardship to plan a trip to the Tule River Reservation. A family is required to have good transportation, gas, and food money. Also, it takes a full-day to get the help they need. At least it's closer to travel to Visalia. And if they have to go to the Hillman Clinic in Tulare, they will be waited on by non-Indians.

There are 16 people and one due in the fall that are members of the Icho clan in Visalia. We would be adversely affected by the closing of the Visalia Health Clinic.

I beg of you young people to pick up the staff and carry it and inform the non-Indians of our plight so that your voices can be heard all over the Mother Earth.

Respectively, Elsie Icho Tennant, Elder, Wukchumni Council.

[Applause.]

[Prepared statement of Ms. Tennant appears in appendix.]

The CHAIRMAN. Thank you very much, Ms. Tennant. Our next group will consist of: Ms. Charlene Ward, spokesperson of the Toyon Wintu Center; Mr. Jay J. Johnson, tribal member and spokesman for the American Indian Council of Mariposa County; Mr. Les James, tribal members of the American Indian Council of Mariposa County; and Mr. James P. Brown III, Director, Lake County Tribal Health Consortium.

We will have a two-minute recess.

[Recess.]

The CHAIRMAN. Please proceed.

STATEMENT OF CHARLENE WARD, SPOKESPERSON, TOYON WINTU CENTER, PROJECT CITY, CA

Ms. WARD. My name is Charlene Ward, and I am from Shasta County of the Winamum Wintu Band, McCloud River. We are an autonomous band of the Wintu people—the only traditional band to always maintain our traditional governmental structures, and part of that reason was because we were isolated up in the mountains, and for so long the white people never came up there and bothered us.

I am here representing us, directed by Florence B. Jones, who is our Wintu medicine person and our spiritual leader. She directed me to come here and speak for my band and our people.

I am very inexperienced, so please——

The CHAIRMAN. You are doing very well.

Ms. WARD. Please excuse mistakes, or if there are things that seem incomplete or confusing.

We are of this Earth. We are red people, and I think all of us here have realized where our beginnings are, and our beginnings are from the land.

Each tribe is given a certain part of the land by the Great Spirit and by the Creator who put us here, and with this land we are given direction and structures to maintain life for our people, plus we are given responsibilities to maintain our sacred places. These sacred places interconnect, and all Indians interconnect to create harmony and to maintain this world.

When I hear of eligibility for the health, I don't only think about just that very focused issue, because there are more entitlements than just health. Health is only one entitlement, and we are given these entitlements to compensate us for the losses that we have endured through fighting for our land to keep our land and to maintain our tribal ways and to maintain our cultural and spiritual ways, and we have succeeded.

We couldn't maintain our lands, but these, I feel, are reparations for the sufferings that we have done. We have endured. We have lost our people. We have lost our way of life. We are denied our spiritual places to maintain us spiritually, physically, mentally, and emotionally.

This, to me, is a right that another human being gives another. I see that all the time. In the history we read about the wars with Japan. The Americans fought Japan. The Americans fought Germany. Afterwards they helped these nations reconstruct because of a lot of the destruction that they endured. And it was to the best interest for the winner to do that—not only in just the physical sense, but in the spiritual sense that we are all citizens not only of nations, but of this world. We are all brothers to one another, whether we be black, red, white, or whatever color. We are all of the same blood. We are all of the Creator. And we should all treat each other with the respect that we would like to be treated with.

I think that is all that we really ask for. We ask for the respect to maintain our cultural ways, to maintain our tribal government, to oversee the needs of our people with these entitlements that we deserve. We have suffered for them. We have given blood for them.

That is all that I would like to say.

I thank you for hearing me.

The only other thing that I would like to include is that this nation is going through a lot of suffering, itself. There is a lot of corruption, and the government needs to review and go over their own structure. The corruption comes out in the paper every day, and I say that because in Shasta County there is a lot of grabbing for power. And to that grab we, as a poor people, are the ones that suffer with no health care.

Shasta County has closed down the one hospital that was maintained for low-income and poor people. Now there are not health services there.

As much as they are going to maintain is a four-person medical staff in the hospital that used to serve most of the Indian people in that community, and a lot of other people, too. We not only care for ourselves; we care for all the poor people in our position, too.

I feel like the Government should—the committee should oversee and review the Bureau and the IHS to see what these policies and regulations that they are creating are doing to the Indian people, and that it is not each thing that should be focused on, but all of it should be focused on.

We are going through a barrage of things. We are denied access and protection of our sacred places. We are denied protection of our cemeteries. We are denied educational benefits. We are denied now health care.

Not only do we play a dual role as American Indians and tribal people, we are citizens of this country, too, and as citizens we deserve an additional right as that citizenry to oversee the needs of the citizens of the United States.

The CHAIRMAN. I thank you very much.

Ms. WARD. Thank you. [Applause.]

[Prepared statement of Mickey Gemmill appears in appendix.]

The CHAIRMAN. The Chair recognizes Mr. Johnson.

STATEMENT OF JAY J. JOHNSON, TRIBAL MEMBER/SPOKESMAN, AMERICAN INDIAN COUNCIL OF MARIPOSA COUNTY, MARIPOSA, CA

Mr. JOHNSON. Thank you, Senator and committee. It is an honor to be here today speaking before you, and I feel very humble, but my humbleness is overcome by the importance of the words and statements that we make to you today.

My name is Jay Johnson. I was born in Yosemite Valley—Yosemite National Park. I am from the Miwok and Paiute Tribes of that area.

I go back to Yosemite valley to my great-grandmother, who was born there in the 1830's.

For example, the Army—and I refer to them as "White Man"—came into the valley in 1851. So we were there long before the first White Man came into our valley, and we are descendants of the Ahwahneechee Tribe that was from Yosemite valley.

I would like to recap, before I read my resolution, a few statements that I heard today, and which you also heard.

A non-federally recognized term, to me, makes me feel like an alien from outer space. I think that's probably what the government wants us to feel.

The thing is that California is a unique State concerning our Indians, and you've heard time and time again based on the fact that there are 50,000 to 70,000 non-federally recognized Indians in the state. There is a situation here that is going to be very disastrous if this kind of rule on eligibility goes through.

With your words today it gives us some hope to the fact that maybe this might not happen. But if it does happen, in my opinion

there will be a modern-day genocide on the non-federally recognized California Indians today.

I would like to read this resolution.

Whereas the American Indian Council of Mariposa County do hereby submit this resolution to this committee with respect and ask that they will assist the California non-Federally-recognized Indian people with continued health care services; and,

Whereas the Indian people of Mariposa County, along with many other Indian tribes, bands, or groups throughout the State of California are in the non-Federally-recognized status; and,

Whereas the Indian population of Mariposa County, along with many other tribes throughout California will be eliminated from IHS health care services as mandated by the final rule on eligibility as of September 16, 1988; and,

Whereas in the 1850's it was the U.S. Government who created the situations or problems as they exist today by the failure by Congress to ratify 18 treaties with California Indian tribes, bands, or groups during that period, therefore, the majority of California Indian tribes today are non-Federally-recognized; and,

Whereas the American Indian Council of Mariposa County submitted a petition for Federal acknowledgement to the Washington, DC BIA office in 1984 with the intent of becoming Federally recognized as a California Indian tribe, the petition is still in the review process with the BIA Branch of Acknowledgement and Research; and,

Whereas, on February 6, 1988, a Federal acknowledgement workshop was held at Clovis, California, and on that date an association for non-Federally-recognized tribes of California was formed, the American Indian Council of Mariposa County became a member of this association. The purpose of this association is to support efforts of non-Federally-recognized California Indian tribes to gain Federal tribal acknowledgement, either by administrative or legislative means; and,

Therefore, be it resolved that the American Indian Council of Mariposa County do hereby ask the honorable Senate Select Committee on Indian Affairs to recommend to the U.S. Congress to direct the Department of Health and Human Services and the Indian Health Service to rescind the final rule on eligibility and proceed with an existing health service eligibility regulation for California,

And be it further resolved that the American Indian Council of Mariposa County asks the Senate Select Committee on Indian Affairs to meet with the non-Federally-recognized Indian tribes of California who will be affected by the final rule on eligibility as of September, 1988, that many of California's non-Federally-recognized Indian people had no written notice of this most-important hearing, that many of the same people did not have an opportunity to submit position papers to this committee,

And be it further resolved that the American Indian Council of Mariposa County asks the Select Committee on Indian Affairs to convey the statements of the California Indian people to the U.S. Congress in a strong and positive manner.

We thank this committee for their assistance at this crucial time.

Thank you, Senator. [Applause.]

[The resolution appears in appendix.]

The CHAIRMAN. Thank you, Mr. Johnson.

Now I wish to call upon Mr. James.

STATEMENT OF LES JAMES, TRIBAL MEMBER, AMERICAN INDIAN COUNCIL OF MARIPOSA COUNTY, MARIPOSA, CA

Mr. JAMES. Thank you, Senator, for allowing me to give this testimony.

I directed this as a letter to you. I had the feeling that I would not be able to testify today. I will read this.

Dear Senator Inouye:

I am a member of the Chuchansi/Miwok Tribes. I live and work in Yosemite National Park in rural Mariposa County. My parents, grandparents, and their grandparents, so on down the line, have inhabited this region for centuries, as have their relatives and friends who reside in other counties surrounding Mariposa—Madera, Fresno, and Merced Counties.

We are concerned of the future of the health of those individuals such as myself who are not recognized by the Bureau of Indian Affairs and the United States Government.

Currently the members of the Counties of Mariposa, Amador, and Calaveras County receive health care from the Tuolumne Indian health clinic, which offers not only medical and dental care, but also provides referrals and counselling for drug, alcohol, and mental health programs. This clinic is located on the Tuolumne Indian Rancheria in Tuolumne County. The rancheria, itself, and its members are recognized by the Bureau of Indian Affairs and the United States Government as a tribe.

For a number of years many of us have travelled as much as 80 miles one way to receive dental and health care from the clinic. Approximately four years ago the clinic expanded their services to Mariposa and Amador Counties. In Mariposa a dental office is being constructed and will be in use in a few weeks.

The demand for Indian health care has increased. I believe approximately 70 percent of the Indian community in Mariposa County is in a low-income bracket. In this day of high medical costs the proposed legislation to curtail health services to non-Federally-recognized tribes will be devastating.

Preventive medical care has sustained the lives of many low-income families—especially our elders, young parents, and children who have suffered many setbacks because of situations beyond their control.

Senator Inouye, I ask of you to do whatever you can that is in your power to oppose this act of discrimination against us that are not recognized on paper. Indians are Indians. We do not ask if we are Federally recognized when we socialize.

I thank you on behalf of my friends and relatives for giving to me this opportunity to oppose this legislation.

[Applause.]

[Prepared statement of Mr. James appears in appendix.]

The CHAIRMAN. Thank you.

Now I am pleased to call on Mr. Brown.

STATEMENT OF JAMES P. BROWN III, DIRECTOR, LAKE COUNTY TRIBAL HEALTH CONSORTIUM, INC., LAKEPORT, CA

Mr. BROWN. Chairman Inouye and members of the committee, I welcome you to California and to the State Capital of the great State of California, the highest populated Indian state in the United States.

I thank you for providing this opportunity to address the Indian people on the Indian Health Services eligibility rules—rules that will have adverse impacts on California Indian people.

My name is James P. Brown III, Director of the Tribal Health consortium consisting of five federally recognized Indian tribes in Lake County.

Our program is trying to provide comprehensive health care in terms of Indian ideas and holistic medicine.

We once were a part of the great Pomo Nation that were in four counties now known as the Wine Country—Napa, Sonoma, Lake, and Mendocino. There were a total of 24 Pomo tribes. Presently there are only 12 that are recognized.

My purpose today is to request your vote in support of the abolishment of the Indian Health Service eligibility rules. This eligibility criteria will have great impacts upon the California Native Americans that have fallen through the cracks of Federal policies—most of all, the non-affiliated and the unorganized tribes.

This policy may be the vehicle that destroys the true sovereignty of the Indian tribes in the United States. For decades the California tribes have been dependent upon politicians and Federal agencies to address and advocate their dilemma, but, unfortunately,

self-interest groups have lobbying powers that have impacted direct legislation to take away Indian lands, resources, and powers of the tribal governments.

Generations upon generation of our people have been innocent victims of a cultural and economic genocide, both by Christian missionaries, gold miners, ranchers, Indian agents, school teachers, politicians, and other pillars of American society that have often misguidedly and relentlessly waged a war upon the aboriginal society, most of all, in order to indoctrinate European values that have been very disruptive to the social and moral development of the Indian communities and tribes.

This also put a wedge between the development with the city, county, and states to work with Indians. Because we do not have the voting power to impact politicians in election years, our concerns fall upon deaf ears. We have had the land-base. The land-base would have given us the economic base for politicians to stand up and listen to us and provide the self-sufficiency that we need to survive.

Most importantly, we have not been the true partners in the prosperity of the United States, an opportunity that has been afforded to all American immigrants.

When our president makes inappropriate statements to the Russian people in order to save face and downplay the generations of injustices that have continued toward Indian people in the United States, it is no wonder that he has to justify his own administration's narrow views and self-righteousness toward Indian people. And it is also no wonder why many Indian people feel like foreigners in their own country.

Instead of having a government-to-government relationship, it is more of confining the tribal governments to conform to current government policies in order to justify funding.

For too long agencies that are responsible to tribes have impeded the policies authorized by Congress. It is hard to get California tribes to trust government policies, as history has a way of repeating itself.

For example, some of you have heard of Indian Time. Well, the last time a California Indian showed up on time was the 18 unratified treaties of California. Maybe you'll get an idea of what happened. [Laughter.]

You must realize the numerous ordeals and conflicts that have impacted and disrupted traditional lifestyles, starting with the missionaries that destroyed the religious beliefs, to the ranchers enslaving Indian families, to the 18 unratified treaties in 1850, leaving 95 percent of the tribes landless. Non-citizenship also was until 1934. Segregated and oppressed, we lived on ranchos.

After World War II Federal policies and agents began to step up determination of tribes, claiming that the Indian people must learn to exist in the mainstream of America by pressing them on relocation. An example of that, Chairman Inouye, was my family, who was relocated in the 1950's to Oakland. We have a renting experience there.

My mother was really upset when she found out 15 years later that the Bureau of Indian Affairs did a report on how we were coping with city life. What it read was, "The Brown Family does

not know how to organize or match furniture." What they didn't realize was that when we moved there they gave us all GSA government equipment. What can you do with green?

My mother, who doesn't read or write, and was a terminating Indian from the Big Valley Community, still feels that the government owes her and her people.

Getting back: first of all, most of these people were relocated to urban areas. Hundreds—and many times thousands—of miles away from their tribe. The main reason was to sever Indian tribal governments from Federal responsibilities under the 1957 termination act.

Another example of that is that when we left in the 1950's we had 191 acres of land. We moved home in 1971 and had 50. So during that time the Bureau of Indian Affairs sold and leased off the lands that we had. At the same time, they leased our property to a mining company, and from that day on my tribe was known as the Sulphur Bay Tribe. We are really in the Pomo. Who wants to be named after sulphur?

The BIA has had many negative policies toward Indian people, and when California Indians had vote for compensation from California lands due to the unratified treaties, the BIA intervened and received the value for the California. For example, the California people received the value of the land in the 1850's—or 47 cents an acre—which basically came out to $600 for each registered California Indian.

You know, unfortunately it seems like all these years we have been represented by the wrong law firm.

Before P.L. 93-638 the BIA dictated to tribes and even held elections and were involved directly in tribal affairs. Today if there is a problem that is unresolved in the tribal communities and we ask for assistance, the BIA tells us that are sorry, but due to Indian self-determination they cannot listen to us, and that is our own problem.

All we need is a Federal mediator.

The Indian Health Service has followed in the footsteps of the BIA in the termination ear. IHS moved out of California, leaving unmet health services and deteriorating health conditions.

The majority of the tribes had poor housing, and were without proper sanitation facilities and lived in remote pockets of mostly land-locked reservations.

The only relief to come was with the media and the national attention the civil rights movement gained. This provided some relief to California Indian people.

The tribes had to resort to lawsuits in order to get any action from the responsible agencies, but it appears that lawsuits may still not be the answer.

Case in point: the Rincon lawsuit that was a great victory for California Indians, but we have not seen the benefits. All that was created was the IHS methodology called seram and aram, a system to allocate health funds that are inadequate in the first place.

Presently I feel the eligibility regulation only creates more problems for California people, and until there is adequate consultation with tribes and other adequate funding provided to California people the eligibility regulation will create a double jeopardy

within the tribal governments and proceed to unjustly eliminate homeless and landless people—The California Indian people—the true refugees of their own country.

Thank you very much. [Applause.]

The CHAIRMAN. Before calling upon the next group I would like to say a few words for the record.

Every witness this afternoon has mentioned the Indian Health Service—the IHS. During the past 2 years, as chairman of the committee, I have made a special effort to look into the Indian Health Service. I wish to tell you that the service is made up of very, very dedicated, committed, and compassionate men and women—men and women who could be earning much more on the outside.

In fact, IHS physicians get paid less than VA physicians, even though they work for the same government.

The present regulations that we are speaking of—as I indicated earlier, were not the doing of the IHS. It was forced upon them. The Office of Management and Budget said you will have to cut your expenses, and that was the cause for the regulation.

The IHS was were very reluctant in issuing this. In fact, they were against it. I am certain they would be very happy to rescind it.

I notice that in this audience we have the chief medical officer of the Sacramento area and the special assistant to the area director. I would like to have them stand so that they can receive your applause of gratitude please. [Applause.]

Are there other IHS people there?

[No response.]

The CHAIRMAN. Well, gentlemen, I want to thank you for what you are doing for us here. I just didn't want you to have the wrong impression. [Laughter.]

Our next group is made up of: Mr. Patrick Renick, Program Director, California Indian Council on Aging; Mr. Marvin Benner, Tribal Member of the Maidu Tribe; and Mr. John Hayward, spokesman of the Tillie-Hardwick IRA Tribe.

Mr. Renick.

STATEMENT OF PATRICK RENICK, PROGRAM DIRECTOR, CALIFORNIA INDIAN COUNCIL ON AGING, SACRAMENTO, CA

Mr. RENICK. Thank you, Mr. Chairman.

As the Senator indicated, I am the program director of the California Indian Council on Aging. I refer to the Council on Aging as CCOA from now on.

It has been in existence for eight years, and represents some 42 tribes and Indian organizations in the State.

As program director of CCOA I am here to request the Senate Select Committee to initiate legislation to abolish the pending IHS eligibility regulations.

The Congress has side-stepped the California land tribal problems so long that the concerns and issues best can be termed "thunderstruck."

CCOA further requests the Senate Select Committee on Indian Affairs to hold additional oversight field hearings in California to

address the many unresolved California Indian problems, along with aging problems.

California Indian senior citizens are the most under-served, under-represented group of Indians in our State. Most of our Indian elderly live day to day in almost unbelievable substandard housing, failing health, geographic isolation, social, and abject poverty.

The majority of our Indian elderly depend on supplemental security income as a sole source of support.

The 1980 census indicates that 61 percent of the nation's Indian elderly population exists below the national poverty level.

Both the social and economic data demonstrates that our Indian elderly could not afford to pay for prescriptions, and Medical or Medicaid would not authorize for payment.

Most health services for Indian elders are under-utilized because of limited access due to lack of transportation, no telephone, information, and resources, lack of outreach on the part of mental health providers, lack of specialized focus within Indian Health Service, California Office Delivery System on Geriatric Health Care, lack of documented information where they live, housing conditions, status of their health conditions, the failure of service providers and policy-makers to design mental health services approaches that are appropriate to the social and cultural setting in which the elders have needs of services.

Several of the tribal contracts provide excellent care for the Indian elderly, while several tribal contractors need to develop service programs.

The Indian Health Service California Area Office does not have any master geriatric health care program.

In conclusion, Mr. Chairman, the CCOA is aware that the daily living circumstances of Indian elders poses a potential threat to the ability of Indian elders to maintain a healthy outlook on their daily lives and their future.

I will quote an article by Doctor Spiro Manson and Donald Caloway in their article "Health and Aging American Indians." "Growing older presents great difficulties for a sizeable segment of our population—perhaps 30 percent of America's aged population.

"Being Indian and being old intensifies these difficulties, but being an Indian over the age of 75 and living in a rural area may represent being a member of the most discriminated segment of American society."

I would hope my comments will give the committee some ideas for ways to improve the level of care and communications for Indians in California—Indian elders in California.

The vast complexities of unresolved Indian necessitates future oversight field hearings in California by Senate Select Committee on Indian Affairs.

Mr. Chairman, I thank you for your kind attention in allowing me to speak here.

In conclusion, I would like to present you and the Senate Select Committee with this Pomo feathered basket with our Indian money tied on the side. The maker of it is Rose Anderson. She is a senior citizen of Pomo Indian descent, and she has cancer. So this is going to be one of the very few baskets that she will probably have

around. There is one more in existence, and she may be working on some now, but she may not finish them. So I want to present this to the Senate Select Committee.

Thank you. [Applause.]

[Prepared statement of Mr. Renick appears in appendix.]

The CHAIRMAN. Thank you.

Mr. Renick, please thank Ms. Anderson for the very beautiful basket.

Mr. Benner.

STATEMENT OF MARVIN L. BENNER, TRIBAL MEMBER, MAIDU TRIBE, SUSANVILLE, CA

Mr. BENNER. Chairman Inouye and members of the committee, my name is Marvin L. Benner. I am a Maidu. I am a Pitt River and a Hefrick Indian—and I have a little bit of Dutch and Irish blood in me. I am glad to be here.

I am amongst 798 Indians from the Susanville area. Approximately 700 of us are off-reservation Indians. I am one of the off-reservation Indians. We are concerned deeply about anything that has to do with eligibility, because as soon as we speak about eligibility it implicates BIA as well, because they set the policy about who is Indian and who is not Indian. IHS accepts their policy in regards to Indian certification.

So I'd like to have your support, please. I am thankful, first of all, that there is a 1-year moratorium being considered mutually by the Congress. That is nice to know. That's not enough time, however, it is a lot better than September 16, 1988. That's coming down on us fast.

I share some of the present IHS privileges and benefits and I love them and am thankful for them.

My wife, who is a non-Indian, shares some of those benefits. She has to pay part of them, and that's great, because that's much better than going out there and paying the full price in private practice. I am really thankful for IHS benefits and services that are received off the rancherias and other areas. It is very kind.

But I do see that this moratorium is just temporary, and I hope that Congress will take this time, indeed, to say we have a problem out there and we Indians are concerned about whether or not we are Indians. I know I am, and I can prove it, but sometimes maybe that's just not enough with Federal regulations as they are now.

We need your help. We need the Congress' help. I'm afraid to go to BIA. I don't have the strength to talk to anybody that works for BIA, or even IHS. I don't know the regulations. I don't even know how to begin.

We are separate little groups out here in California. We are different from everyone else. You talk to one, and the rest of them don't know what is happening. It would be nice if we were just one strong nation. It's pretty nice that they're all here today saying, "Down with this eligibility issue. Down with every bit of it."

And I'm saying, "Please support stopping any future or any present regulation or ruling that IHS has in regards to this eligibility." If it means to go into OMB—whatever it takes. You know much more about the process than I do, but I do know that you

have influence, and we are here because of that influence—not because of BIA. We can't get any place with BIA.

Thank you for even considering us at this time.

I'd like to question now the possibility that BIA and IHS—I see them as a very, very powerful potential possibility in destroying, ruining, wrecking our eligibility status. I compare that as cancer is to the human body.

This is just a symptom here of eligibility right now. This is just a mere symptom—a scratch on the arm. We look at the scratch on our arm and say we have a problem here, and the doctor would look at us and see how the rest of the organism is put together. What else is effecting us here? What is the source? Did Congress originally intend for IHS or the BIA to say who was Indian and who was not Indian? After all, you pass the laws and they implement them.

How were those laws passed? What did you mean by them? I don't think you meant to do us any harm. I believe that every law that you passed was with good intentions toward our people.

My old ancestors had words that were handed down from time and time—at least in my family—had nothing but good to say about the white people and the government. Oh, they have had their general complaints, but overall they said they were thankful for where they were living, they were thankful that they weren't living in some other country with the hardships that they had.

I'd like to have your support, as well, if, in the future, there should be a question of us being recognized as a certified Indian, and thus making us eligible for benefits through education, BIA, IHS health service. Help us, in our area, to get on the reservation or rancherias. There are only approximately 98 people up there that control that rancheria. There are 700 of us—and I've heard that it's bigger, but I think 700 is a safe figure to use—who would like to get in and be part of that process that you intended, as Congress, for us to be a part of to improve and to be better.

There are a lot of skills off-reservation. There are a lot of people who are capable of doing a good program. There are many of us who are taxpayers. We pay right back into that system. I, for one, am just proud to be a taxpayer. I am proud of that privilege, and I want to keep on doing that.

But also, if I am well-off, I want to set back and maybe help somebody else who may be less fortunate. And that is what Congress is doing for us Indians. They are helping us. They are stepping back and saying there are those out there that need help. I want that help. I'm humble enough. I need help. I'm that far away from total depression. Should this economy and our national deficit just fall through, I'll probably be the first one in a soup line if I am fortunate. I need Congress' help if it's a big brother or the white father. That's fine. That's great. I can respect that there because I know your intention is good.

Let us be part of that local government, though, that is part of the overall structure for the good of all people. Help us get on to the rancheria so that we can be part of that structure please.

I ask for many other people who would like to have that privilege of being there.

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I love our people—each and every one of them—and I love my government. I know you'll help me. I know you'll try for our people up there.

Let me just take a second to talk about my old grandmother who I love dearly. She is a blind old lady—108 years of age. She has a cane that protrudes above her head. She walks around. She'd put her arm around me. She's blind.

I'd walk up and say, "Hi, Grandma," and she'd have to feel my face and my hands and she'd say, "You're Viola's son, aren't you?" I'd say, "Yes, Gram." She'd say, "Are you hungry?" I was always hungry. I was never full. I was always starving. She fed me. She'd put her old toast on the top of the old stove—it was burned more times than it was cooked. I mean it was burned, but she'd put her old butter on it and I'd enjoy it.

And she told us all a story that once before her people were removed from her area and taken down horse-marched by the soldiers and removed to coastal areas. But some other Indians had recognized these people—my people—and said they were good Indians and they removed the wrong people from that area.

But the soldiers and the authorities took that particular—they listened to other Indians and believed them at word value and accepted them, and the authorities came to my people and said they made a mistake and wrote something on a piece of paper and put it inside the American flag and gave it to my great-grandmother's parents and said to show this to anybody along the way home—ranchers, settlers, whoever—and they will take care of you. And they did.

They had nothing but good things to say about the white people then—about our government. Those things have been handed down, and I know that this government today will still do the same thing for us.

I thank you, Senator. [Applause.]

[Prepared statement of Mr. Benner appears in appendix.]

The CHAIRMAN. I thank you very much, Mr. Benner.

Mr. BENNER. Before I leave could I please ask a favor that a fellow infantryman from your time—World War II—another Maidu Indian who had last-minute news of this, if he could please talk before you please?

STATEMENT OF UNIDENTIFIED INDIAN ELDER

UNIDENTIFIED INDIAN ELDER. Senator Inouye and staff, I will speak as an Indian elder, and I also want to talk to you as a fellow combat infantryman, rifle company type, and I wear comparable medals as you do—the distinguished service cross, two silver stars, two bronze stars, two combination medals, and five purple hearts.

But as an elder I have been around this world a few years. Fifty years ago I graduated from Sherman Indian School. Prior to that time I put ten years in that boarding school system.

I have met many Indians in my life. As a career soldier I have met Indians all around this world. I have met them in the jungles of New Guinea. I have met them in the rice patties of Leyte and Luzon Islands, and in the snow ridges of South and North Korea.

I've met them in other conditions. I drank beer with them at Fort Derussey, Hawaii. I toasted a few beers at Hofbrau House in Munich, Germany. So I have met many Indians in my life.

But in my advanced age I find it a little difficult when I meet an Indian to determine whether he is a federally recognized Indian or a non-federally recognized Indian. Maybe I'm getting a little touched with Alzheimer—I don't know. [Laughter.]

But Nazi Germany had a method of determining what people wanted to know about. They tattooed them. Now, tattooing is not a bad practice. My tribe practiced that. My mother was proud of her facial tattoos.

So the Federal Government is very efficient—maybe I'm being a little facetious, but they take these groups—it doesn't matter which—federally recognized and non-federally recognized—and let's tattoo them right on the forehead. I am facetious.

But what I am disturbed about: I am approaching 21 years of retirement. I spent 27 years in the Army. I retired almost 21 years ago. And just now I think I'm beginning to adjust to civilian life. It disturbs me—well, first of all the health service that is provided—and I'm glad you introduced those two gentlemen—I've utilized the health clinic at the Susanville Rancheria. I've been highly satisfied. No problem.

But I see the weakness—and ladies and gentleman I'm only talking about the Susanville Indian Rancheria, none other in the State—and God forbid that you don't have the condition that we have up there.

Senator Inouye, I believe you remember that acronym of World War II, SNAFU. Well, we have it up there. I think the problem is to get these young people trained, and first of all they have got to understand what democratic principles are. That's the first thing you've got to drive home to them, and then let them operate as a democratic governing board or advisory board or whatever board there is and then let them go.

Thank you, sir. [Applause.]

The CHAIRMAN. Thank you.

Mr. Hayward.

STATEMENT OF JOHN HAYWARD, SPOKESMAN, TILLIE-HARDWICK IRA TRIBE, REDDING, CA

Mr. HAYWARD. To the United States Select Committee convened June 30, 1988, in Sacramento, CA, and all present: I have presented some stuff here, and each package contains six summary statements, eighteen authorized resolutions, and a 98-page packet, of which 52 pages are concerning the Redding Wintu allotment schedule of over 600 allotments—approximately 49,000 acres. The other 46 pages are public law indexes and appendix of an IRA—Indian Reorganization Act of 1934 and the IRA focus by the tribes of America.

I want to read first three of the authorized statements, and then the summary statement, and one paragraph from the Wintu allotment schedule.

April 16, 1988. Whereas I am a lineal descendant of Millie Towndolie, a person named on the plan for distribution of the Wayne Rancheria; and,

Whereas the Tillie-Hardwick court decision upheld my right to enjoy myself as an Indian forevermore, and whereas the general counsel of the Redding Rancheria convened June 15, 1985, in Redding California and chose to exclude some people named on the plan for distribution and their lineal descendants from membership in the Redding Rancheria Tribe; and,

Whereas I now have the right to organize and petition the U.S. Department of the Interior for a reservation to enjoy themselves as an Indian, according to the Indian Reorganization Act of 1934; and,

Whereas the charter for tribal government would allow other persons excluded but named on the plan for distribution and their lineal descendants and other Wintu Indians; and,

WWhereas I have authorized John Hayward of 2228 Redding Rancheria Road to help develop and solicit funding to get and receive record and administrate legal help to promote my best interest in this matter;

And so now therefore I approve and support this document by my signature—Tim Wilson. Dated April 16.

And the second resolution is:

Whereas I am eligible under section 16, 17, and 19 of the Indian Reorganization Act of 1934 to enjoy myself as an Indian; and,

Whereas I am a lineal descendant of John Calvin Sisk, a Wintu of Redding given allotment for the Wintu Indians in Redding in 1898; and

Whereas I have authorized John R. Hayward of 2228 Redding Rancheria Road, California, to take and find legal help to complete the organization of myself and others under the IRA Act of 1934; and

Whereas the charter I would present would accept other Wintu Indians as members;

And so now therefore my signature approves and supports this document—Signed Elizabeth L. Sisk.

The third one is:

Whereas I am eligible under 16, 17, and 19 of the Indian Reorganization Act of 1934 to organize for my benefit; and

Whereas I am a lineal descendant of a person named on the Redding Wintu Indian allotment scheduled May of 1898; and

Whereas I authorize John R. Hayward to coordinate my recognition under IRA act by solicitation of funding and legal help as he feels necessary; and

Whereas any charter I approve would accept other Wintu Indians as tribal members;

And so now therefore I approve and support this document by my signature—Velma Garcia.

The other part I want to read just one sentence—or about four sentences from the Redding Wintu allotment schedule, and it is from the Department of Interior, Office of Indian Affairs, Rhodesford, Oregon, May 16, 1892. Mike Reid, an individual Indian, Redding California:

Frank Reid, I am pleased to inform you that the Commissioner of Indian Affairs has favorably considered my recommendation to hire you for your services in making allotments to the Wintu Indians at Redding, and has requested you to send him an estimate of what should be allowed you.

I have estimated you a time limit of 21 weeks at $10 a week, making $210, and am satisfied you will be allowed that sum, which will enable you to get a satisfactory fair price.

I know you and your family are in good heart and safely located in your new home. Do not tell the other Indians, as they would be jealous if they knew.

One of the things here—these resolutions would be withdrawn, probably, if there was some sort of proposed legislation to take care of the Wintu situation.

Now I want to read the summary statement that we have prepared.

Whereas the Senate Select Committee has convened this hearing to discussions of five minutes per person for or against the proposed Indian Health Service eligibility rules; and,

Whereas there has been a proposed change by the Senate Select Committee to exempt the Indians of California from the proposed bill before passage; and,

Whereas that proposed change is dependent of other health care eventually being available to those Indians not currently enrolled members of Federally-recognized tribes or members of such households; and,

Whereas the proposed bill does not address Federal recognition available to those tribes not Federally recognized in California, nor jurisdiction over those facilities carefully ignored by this bill that may belong to that select group of Indians in California authorized to file suit in the United States Court of Claims; and,

Whereas the current Federally-recognized tribes in California are denied access to file claims in the U.S. Court of Claims; and,

Whereas the California constitution, until 1950, denied Indians access to citizenship by its very wording; and,

Whereas Congress is empowered by the U.S. Constitution to regulate commerce and trade with foreign nations and Indian tribes specifically pointing out that Congressional support and representation shall not include those untaxed Indians by the U.S. Constitution's very wording; and,

Whereas the U.S. Supreme Court and U.S. District Courts throughout history have confirmed the fiduciary trust responsibility of the United States of America for the tribal government development of the Indians in their favor; and,

Whereas the denial of health services to 200,000 Indians and their respective members of Indian households would be genocide to and obstruct slow but continuous positive self-determination of the tribal governments of the Indians of California, both Federally-recognized and not Federally-recognized; and,

Whereas overall the effective destruction of tribal government would occur by transference of that fiduciary trust responsibility for those 200,000 Indians and their members of Indian households to the State of California from the Indian Health Services presently servicing them on behalf of the Federally-recognized tribes in California; and,

Whereas tribal government has been diminished and obstructed by the current unauthorized activities by the Bureau of Indian Affairs budget policy in California to exclude unenrolled Indian members of Federally-recognized tribes and other non-Federally recognized Indians in California access to services by the Bureau of Indian Affairs such as preservation of their Indian burial grounds, sacred grounds, allotment land, and trust restorations, higher education, tribal gathering places, and access to Federal recognition both through Indian Reorganization Act qualified and aboriginal petition; and,

Whereas the 1928 U.S. Court of Claims lawsuit on behalf of the Indians of California guaranteed these basic needs to the Indian tribes of California so they may forevermore enjoy themselves as Indians; and,

Whereas the tribal government has already been illegally damaged because contractual services for the Indians in California have been deleted, not turned over to the Federally-recognized tribes as promised under public law 93-638; and,

Whereas the thriftiness of the government is not served best by the genocide of humans as with the development of government-to-government relationships with the tribes of Indians in California; and

Whereas populations services dollar-per-person for preventative and direct health care have never been, nor will ever be surpassed by other statistics for the California Indian health care by any other State or Federal programs ever; and,

Whereas the dollar-per-person factor theoretically should be zero, and the Indian Health mortality positive figures could be super-improved by the introduction of traditional Indian family support participation lotteries, along with the continuous positive extent family growth stimulated and preserved in honorable fashion by tribal affiliation; and

Whereas alternatives shown to be evident in California are the ever-spreading development of street gangs such as depicted in the movie 'Colors', and

Whereas the Indians of California are now pursuing Federal recognition and are terminating those agencies such as the Bureau of Indian Affairs in California who seek to terminate the development of tribal government for all Indians in California, and

Whereas the fact that this hearing is being held shows the policy of the United States may be changing from termination of the American Indian to recognition of the positive benefits for the American people and American Indian by the U.S. Con-

gress supporting the preservation of Indian tribes by providing access to Federal recognition and tribal development through self determination;

So now, therefore, I support those here in attendance to state their opposition to the proposed Indian Health Services eligibility rule and join them in prayer that the Senate Select Committee will have the wisdom to make the right decisions about this very important bill.

Thank you. [Applause.]

[Material of Mr. Hayward appears in appendix.]

The CHAIRMAN. The last group: Mr. Charles Deegan of Sacramento; Ms. Emma Rose Mitchell of the Yokayo Tribe; and the Honorable Eileen Kate, Tribal Chairperson, Big Sandy Rancheria.

UNIDENTIFIED VOICE. Mr. Chairman, Mildred Rhoades was to have spoken, but her name is not on here. May she speak?

The CHAIRMAN. If she wishes to.

UNIDENTIFIED VOICE. She wishes to.

STATEMENT OF MILDRED RHOADES, VICE CHAIRPERSON, SHASTA TRINITY RURAL INDIAN HEALTH PROJECT

Ms. RHOADES. I'm Mildred Rhoades from Bid Bend, and I am vice chairman of the Shasta Trinity Rural Indian Health Project.

I think a lot of things have been said that I would have like to have said. But what I wanted to talk about was the way that the Indian Health Service has been doing with our project up there.

First we had a land base. We used Big Bend for a land base, because at that time the Big Bend Rancheria was a federally recognized rancheria, and there was one Pitt River Indian on it that was represented.

Well, then the Bureau of Indian Affairs and the Indian Health Service went through. Ross Swimmer signed a document that said that Pitt River Tribe was taking care of everything and they wanted to take over our Indian Health Service down there.

The Redding Rancheria became Federally recognized, and they have got Wintus and Pitt Rivers and whatever on there and they call that a tribe, and they can't be a tribe. It's just like mixing oranges and apples and pears and calling it a pineapple because that's the way we are with the Redding Rancheria.

So, anyway, I'd like to say that the U.S. Government or society or whatever you want to call yourselves is stricken with a disease called Leukemia, and you wonder what is happening to our Indian people, and it is because the society of white people are just like white corpuscles, and they are eating up the red corpuscles which are us Indian people, and today you see a few people here out of 80,000 or 90,000 Indians of California.

There isn't even a handful that are representing here that there are a lot of other Indians, and we need to see you come back to California again and see some more of our problems—not just health problems.

We have problems upon problems here in California regarding our rancherias and regarding our federally recognized Indians, our un-federally recognized Indians, our terminated Indians, our assimilated Indians—go on and on. We are all kinds of things. Whatever you want to be, you can name it, and we are it.

And it is like the fellow said today, we don't even know if we are Indian. We have to prove who we are. And in order to prove who

we are to keep our health services going is why we are here before you today.

So I'd like to thank you for listening to me. I apologize for butting in when I was late, but thank you, again, Senator. Maybe we will see you next time.

Thanks a lot.

I'll write to you some time. [Applause.]

[Prepared statement of Ms. Rhoades appears in appendix.]

The CHAIRMAN. Is Mr. Deegan here?

[No response.]

The CHAIRMAN. Ms. Emma Rose Mitchell.

STATEMENT OF EMMA ROSE MITCHELL, YOKAYO TRIBE OF INDIANS

Ms. MITCHELL. My name is Emma Rose Mitchell, and I represent the Yokayo Tribe of Indians, and non-federally recognized tribe of Indians in California who are not recognized for Federal Indian Health Service, contract health care, or Federal funds, like federally recognized Indian tribes are.

The Yokayo Tribe of Indians welcomes you to the State of California, our golden state. May your visit here with us add enrichment to you in spirit, mind, and soul.

To begin my oral testimony I would first like to ask you to bear with me as I attempt to familiarize you with our history.

The reason that we are a non-federally recognized tribe is because we did not receive our land base through reservation from reserve lands from the Federal Government. We did not receive our lands from Mexican land grants. We did not receive our land base from any type of land allotment. We worked for our lands—sweat, blood, and tears—and we pulled our moneys together, and in 1881 we did a land deed to our tribal properties.

Because we are not federally recognized we have never been able to receive any type of health assistance from anyone, yet through the influx of society at large we have been contaminated with all kinds of viral diseases and germs.

We go to the federally recognized health clinics to get health services. Because there is no non-federally recognized health dollars at those clinics they turn their backs on us and they don't provide us with health services.

The Public Health Department doesn't recognize responsibilities to meet our health needs, nor does the Federal Government. State Indian Health Service agencies turn their backs on us, also. Therefore, we have to look out for our own health needs.

In order to combat these infectious germs and diseases we need cleanliness. Our neighbors have taken our subsurface waters—they have dammed up our creeks to irrigate their vineyards. We don't even have that. Instead they give us contaminated river water for human consumption.

What we'd like you to do, perhaps, is intervene into the Indian Health Service eligibility criteria in behalf of the non-federally recognized tribes, and we support your opposition if you do oppose the Indian Health Service eligibility criteria. And we'd like your inter-

vention in behalf of the non-federally recognized tribes of the California non-federally recognized Indians.

Thank you, Senator Inouye. [Applause.]

[Prepared statement of Ms. Mitchell appears in appendix.]

The CHAIRMAN. Thank you very much, Ms. Mitchell.

And finally the last witness, Chairperson Cape.

STATEMENT OF ILIENE CAPE, TRIBAL CHAIRPERSON, BIG SANDY RANCHERIA, ACCOMPANIED BY MARTHA BEECHER, TRIBAL SECRETARY; EDITH BEECHER, TRIBAL TREASURER; MANUEL GARCIA, EXECUTIVE DIRECTOR OF CENTRAL VALLEY INDIAN HEALTH BOARD; BEN CORDOVA, CENTRAL VALLEY INDIAN HEALTH BOARD; HARRY YELTEN, FRESNO URBAN AREA; AND MORRIS REID, FRESNO URBAN AREA

Ms. CAPE. Senator Inouye, my name is Iliene Cape. I am the tribal chairwoman of the Big Sandy Rancheria located in Fresno County, California. We are a band of the western Mono, which includes people from the North Fork, Cold Springs, and Dunlop areas, and part of Table Mountain.

We have a membership of 230 people, and our tribal council consists of five members. I have two members with me whom I wish to introduce to you: Martha Beecher, our tribal secretary; and Edith Beecher, our tribal treasurer. Two of our members were unable to make it: Doris Lewis, our vice-chairperson; and Margaret Baty, another member at large.

Our concerns are not for our tribal group, but for our neighbors, our friends, and relatives who are not recognized and who will no longer be eligible for health care—and God only knows how many other services—if the eligibility rule on Indian Health Services is allowed to take effect in September of this year.

The most immediate need for Federal recognition of American Indian people is for the United States Federal Government to admit that an Indian is an Indian, whether or not he or she is an enrolled member of any organized group.

Certainly tribal recognition is most important for the survival of the American Indian; however, a more immediate action needs to be taken to give Federal recognition on an individual basis. And, of course, you have your criteria in following certain procedures in this process, just as we tribal groups do.

Already educational scholarships are not available to Indians not affiliated with tribal organizations. We urge the Congress of the United States to expedite Federal recognition to all American Indians throughout the United States of America—especially so in California.

Three, four, or five years of waiting periods for recognition is unacceptable.

Tribal recognition is important for the benefit of the entire membership in local organizations; so, therefore, we reiterate the need for immediate action by the U.S. Congress to consider: first, give Federal recognition on an individual basis; second, recognition to tribes who have worked so long and hard towards this end; and, third, we support killing any bill that begins identifying eligibility criteria that is restrictive to American Indian people.

I am also a member of the Central Valley Indian Health Board located in Clovis, California. Our assistant director, Manuel Garcia, is here today. Our executive director Ben Cordova is here. Ben? And we also have two gentlemen from the Fresno urban area, Mr. Harry Yelten and Mr. Morris Reid.

Someone mentioned earlier something about the 1980 census. Big Sandy Rancheria—and I know of another rancheria near us that has zero population. Although our membership consists of 230 people no census was taken in 1980 so we have zero population according to the United States Census.

Senator Inouye, our museum has a program which has been ongoing since April, and it will be going on through July 31. My aunt, whom I am very proud of, is one of our elders. Out of our 230 membership we have 11 people over 65 years old. My aunt, Margaret Baty, happens to be one of them, and she is participating, along with others, in this program. I would like you to have a picture of her, and I hope one day to see it in your office in Washington.

Thank you. [Applause.]

Ms. CAPE. I would like Harry Yelten to say a few words, please.

Mr. YELTEN. Thank you.

I have been sitting here this afternoon. I have a few questions that came to mind during the afternoon. One is: where are the individuals whose brainstorm resulted in our being here today? Why aren't they here to listen to the outcry in opposition of the proposed change in eligibility requirements? And what do they propose the individuals to do that become ineligible as a result of this proposed change?

The Fresno area has the largest Laotian-Hmong population in the nation, and with the agricultural industry there we have quite a big influx of illegal aliens that come into the area on a seasonal basis. Are these American Indians supposed to turn to the county clinics for their services since they can no longer go to the Indian clinic because they are ineligible because they are no longer federally recognized?

Recently I was given the problem of answering a question that one of my ten-year-old nephews asked as to what the president meant when he went to the Soviet Union, and how could he insult people? I think I did it tactfully and still instilling the respect for the American Government in him. I hope I don't have to face the problem of explaining why he can no longer go to the Indian clinic, and yet his cousins can. How do you explain to a child that you are not federally recognized? It's like saying you're not here according to the government.

With all due respect to the Congress, I know who I am, and I know I am an Indian. I really don't need the Federal Government to tell me that I am an Indian, and yet on paperwork what I say doesn't carry weight—it's all on paperwork.

I want to extend my gratitude for your support. You have voiced our support for us, and I am grateful that you have taken the time to come and listen to the people and their opinions on how they feel about the situation at hand.

Thank you. [Applause.]

The CHAIRMAN. I have been sitting in this chair for over 8 hours. [Laughter.]

MICHAEL RAYMOND. Senator?

The CHAIRMAN. Sir.

MICHAEL RAYMOND. I have one last thing I wanted to share with you. I apologize for the rudeness or any interruption of your statement you were going to make.

The CHAIRMAN. Well, I was going to make a statement, but if you do I won't.

Michael RAYMOND. OK. You've heard our problems. You've seen part of our spirit. We'd like to share the very best of our spirit with you. We have one of our spiritual leaders—in fact, a number of them here in the audience—from California. We were asked in the Central Valley to prepare a sacred gift for you to give you strength, because you have not only been a warrior, but you have also been an advocate for Indian people, and you would appreciate this.

So we have prepared something very strong for you to go back with you. We are going to give it to you pretty quick.

The Chief now is smudging off the area with our sage. The spirits are coming in now in the last part of this to honor you and to help you because we know it has not been easy for yourself or any of your staff in the things you have had to go through in the last five or six years on behalf of our people.

I want to thank you.

I will ask grandfather to continue to bless you. I'm going to ask grandfather to continue to—when you see the stick, think of our people in California and know that despite our problems and things that beset us that we have to deal with every day, that there is a love in our heart and in our spirit for one another. We share this with you and we give you this gift.

It is a singing stick. It represents something that is very common to many of our tribes throughout California. The red earth paint on that stick is life for our people. The direction colors in the beadwork on the shaft are the four directions that give us power. The hawk head on top of that stick will look at you if you look at it and remind you that the spirit that is in our people is good and will be there with you and we will honor and respect you and share the best things with you when you come and return to our people.

So I believe Chief Atwell is just about finished smudging the room and will sing a prayer song for you.

We are also giving you a copy of a prayer that belongs to my family. It goes like this:

Oh grandfather whose voice I hear in the wind and who gives life to all the world, hear us. We are men and women before you, and are many children very small and weak. We need your strength and wisdom.

Let us walk in beauty and make our eyes ever behold the great purple sunset. Make our hands respect the things you have made. I am here to shout through your voice.

Make us wise that we may know the things to tell our people—lessons you have hidden.

We seek strength, grandfather, not to be superior to our brothers and sisters, but to be able to fight our worst enemy, ourself.

Make us ever ready to come to you with clean hands straight out so that when life fades, as the fading sunset, our spirit may come to you without shame.

I hope he answers.

I'd ask everybody to stand, please.

[Chant and dance.]

Chief CLARENCE ATWELL. I ask grandfather to watch over you. We need a person like you to understand our ways and help us.

I'd like to impart my heart to your heart, and for all my people that are standing here, the hand I hold in my hand has got a good heart and strong mind. He has got a lot of love for the people here.

I ask grandfather to watch over you and to help you as we help ourselves. With your help I think you can help us.

It is a good deed you did today. You came to our State, our California nation here. We are not a nation. We are just little tribes scattered all over this one State in the valleys up and down.

We have been praying hard and we asked the grandfather to have this man come and meet with us. I thank the grandfather for guiding this, and we'd like you to come back again and meet with the tribes again in different areas in southern, central, and northern parts.

Thank you. [Applause.]

The CHAIRMAN. Thank you very much. [Applause.]

As I began to say—you can be seated—my staff and I have spent 8 hours sitting here, and we have heard the testimony of 60 Indians, but it was a pleasure doing that.

Some of you may be asking yourself why the grandson of Japanese immigrants from the State of Hawaii is spending time in Sacramento listening to the woes of Indians. Why has he spent more time in Indian country than he has in his beloved State of Hawaii?

I think that is a valid question. Why would I spend more time with Indians than with my people in Hawaii?

Ever since joining the Indian Committee—which, incidentally, was not of choice. The Indian Committee is not one that members seek out. There was a vacancy on that committee, and nobody wanted to fill that vacancy. I happen to be in the leadership of the Senate, and the steering committee looked at me and said why don't you get on the Indian Committee—at least you look like one. [Laughter and applause.]

Now, since serving as a member of that committee I decided to make a very detailed study of the relationship of our government with the sovereign people, sovereign tribes, and sovereign Indian nations. What I learned was a black chapter of tragedy. So I am well aware of the injustice that you have had to suffer. I am well aware of the abuses that your forefathers had to endure and you still endure.

You spoke of 18 treaties. It may surprise you to know that the U.S. Government entered into 800 treaties with Indian nations and Indian tribes. Of the 800, 430 were not ratified—not just 18, but 430. Yet we, as a government, insisted that the Indians live up to their obligations under those treaties.

Of the 370 treaties which we ratified—the United States Senate ratified—the government of the United States proceeded to violate provisions in every one of them. It is ironic that we are a nation that prides itself on living up to treaty obligations. In fact, we call upon nations to live up to treaty obligations on treaties we have not yet ratified.

I am also aware that 200 years ago, when we began our relationship with Indians—a relationship of sovereigns—anthropologists suggest to us that there were at least 14 million Indians residing in

the continental United States. History shows that at the end of the so-called "Indian Wars"—glamorized by Hollywood, by portrayals of General Custer, and John Wayne—anthropologists tell us that somewhere between 250,000 and 800,000 Indians remained. The rest died either from deprivation and starvation, illness, or slaughter.

There is a tragic footnote to the Indian War. At that time we had a surgeon general of the Army—a scientist—who was interested in measuring the cranial capacity of Indians. He wanted to see how intelligent Indians were, so he sent word to the officers and men in the field and requested that they assist him in this study. So he asked them to send to Washington skulls and skeletal remains of Indians.

So many were sent to Washington that the Army finally said it was enough. They terminated the study, and turned over the collection to the Smithsonian Institute.

Together with the Smithsonian collection—which they had from excavations, themselves—we have today in the City of Washington 18,500 skeletal remains of Native Americans. Imagine. Imagine any museum maintaining a collection of 18,500 Italian skulls or French skulls or Japanese skulls or Laotian skulls. There would be a furor in this country.

But today in our nation's capital there are 18,500. To be precise, 14,500 continental Indians, and 4,000 Alaska Natives.

I also know that 200 years ago we recognized the sovereignty and the title of Indian nations—over 300 million acres of land. Today Indians own 50 million acres of land. Something happened in the last 200 years—250 million acres disappeared.

I also know that it was the policy of the government to relocate Indians west of the Mississippi. That's why on the East Coast you don't see too many Indians.

Cherokees came from the Carolinas, not from Oklahoma. They were forced to walk all the way to Oklahoma, and when they arrived there 90 percent had died.

I also know that today's situation is an unacceptable one. Notwithstanding the good work of the Indian Health Service, alcoholism among Indians is three times that of the national average. Suicides in any age category are three times the national average. Thirty-one percent of Indian youth finish high school. Sixty-nine percent drop out.

Diabetes—the chances are that if you are 50 years old, 55 percent of you would have diabetes. This is the worst in the nation.

Respiratory diseases—we have tuberculosis in reservations—something that is rare among other people.

And I also know that today 58 percent of the adult working group in Indian reservations is unemployed. That is the average.

We are dedicated to doing something about these problems. Maybe some of you have met our staff director, the first Indian to serve as a staff director. He was appointed at the recommendation of your tribal leaders. He is a member of the Chippewa Cree Tribe, and the great-great-grandson of the Hunkpapa Chief Sitting Bull. His name is Alan Parker.

Our number two staff person is sitting to my right, Doctor Patricia Zell, a Navajo, this lovely young lady is a doctor. She is a psy-

chologist. She is also a very eminent lawyer. She is the chief editor of the "American Indian Law Review." She could be getting three times the pay outside, but she is the chief legal officer of the committee.

Alan Parker was a bank president and a lawyer. He took a pay cut to get on my committee.

The man sitting to my left, Dan Lewis, legislative assistant, Navajo.

My health specialist, who is sitting to her right, Richard Bad Moccasin, a Sioux.

Seventy-five percent of the staff today are Indians.

We have decided to visit every segment of the United States. We started off with the Pacific Northwest with the Makahs and the Yakimas and the Nisqually, Puyallups; down to the Southwest—Hopi, Navajo, Apache, and the rest. We have just come back from the Plains—Montana, North Dakota and South Dakota. We will follow this by going to Oklahoma and Alaska. Then we will come back to California.

So I want you to know that there are those in Washington who are not only knowledgeable, but who care about what has happened.

Someone mentioned the unfortunate response that was made by our President in Moscow. I was asked to comment on that as Chairman of the committee. I did not criticize him. I did not condemn him. I just expressed sadness because in a real sense his statement reflected the attitude of the people of the United States.

You have got a lot to do. I have got a lot to do. Let's go. [Applause.]

[Whereupon, the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

Additional Material Submitted for the Record

BEFORE THE SENATE SELECT COMMITTEE
ON INDIAN AFFAIRS

HEARINGS ON ELIGIBILITY FOR IHS SERVICES

at

Sacramento, California
June 29, 1988

TESTIMONY

Submitted by:

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Mr. Chairman and Members of the Committee:

We would like to thank you for holding these hearings and giving us the opportunity to appear before you today.

This testimony is submitted by Southern Indian Health Council, Riverside-San Bernardino County Indian Health, Inc. and Indian Health Council, Inc. Appearing today are Frances Shaw, Board Chair of Southern Indian Health Council, Rose Hatfield, Board Chair of Indian Health Council, Inc. and J. Patrick Patencio, Board Chair of Riverside-San Bernardino County Indian Health, Inc. Appearing with us is our attorney, Barbara Karshmer. Each of our programs is a tribally-controlled, Indian-operated health program providing comprehensive ambulatory health care to Indians residing on or near twenty-nine Indian reservations in the rural/remote areas of southern California through contracts with the Indian Health Service pursuant to Public Law 93-638. Together, these three programs have a service population of approximately 30,000 Indians. Although virtually all of our patients are members of federally-recognized tribes who would not be impacted by the new Indian Health Service eligibility regulations, our programs are strongly opposed to those regulations because of the devastating effect which they would have on California Indians in general.

Our three tribal programs urge the Committee to take steps to see that the IHS eligibility regulations are rescinded and the previous regulations brought back into effect. If changes are to be made in eligibility, we urge that the definition of eligibility for California Indians be

that contained in S. 129, as amended at Section 709. If the Committee, on the other hand, wants to see different eligibility regulations enacted, it should insure that a full and thorough study of the potential impact of any proposed regulations is made before they are enacted and that those adopted are substantially similar to those proposed for public comment and review.

It is our understanding that IHS has testified that the new regulations will make ineligible 125,000 Indians who are currently eligible for services but that 125,000 presently ineligible Indians now will become eligible for services. Yet IHS has, presumably, made this change in order to conserve limited financial resources and provide more services to a smaller population, a result which will not occur according to these figures. Moreover, IHS's purported rationale of creating a more clearly defined service population would appear to be specious inasmuch as IHS knows through its new patient registration system exactly how many people are being served and who those people are.

I. THE FEDERAL GOVERNMENT HAS AN OBLIGATION TO PROVIDE HEALTH CARE TO CALIFORNIA INDIANS

It is our position that the federal government has a trust responsibility to provide health care for the Indian people, including the California Indians. The relationship of the United States to its Indians is "perhaps unlike that of any other two people in existence"[1/], and involves the trust responsibility which the federal government owes to

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1/ Cherokee Nation v. Georgia, 30 U.S. 1, 16 (1831)

Indians. It is a "duty of protection" that arose "[f]rom their very weakness and helplessness, so largely due to the course of dealing of the Federal Government with them ..."[2/] The concept behind the trust responsibility developed from a combination of international law, colonial and U.S. treaties, and federal statutes and judicial decisions.

According to the American Indian Policy Review Commission of the United States Congress[3/]

> the purpose behind the trust is and always has been to insure the survival and welfare of Indian tribes and people. This includes an obligation to provide those services required to protect and enhance Indian lands, resources, and self-government, and also includes those economic and social programs which are necessary to raise the standard of living and social well-being of the Indian people to a level comparable to the non-Indian society. This duty has long been recognized implicitly by Congress in numerous acts, including the Snyder Act of 1921, the Indian Reorganization Act of 1934 ... the Indian Self-Determination and Education Assistance Act of 1975, and the Indian Health Care Improvement Act of 1976.
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> American Indian Policy Review Commission, Final Report, May 17, 1977, Vol. I, U.S. Government Printing Office, Washington, (1977), p. 130.

The courts have long recognized this special duty to the Indian people and have often characterized it as a guardian-ward relationship,[4/] as a fiduciary relationship,[5/] or as a

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2/United States v. Kagama, 118 U.S. 375, 384; 30 L.Ed. 228, 231 (1886).

3/This Congressional Commission was established pursuant to P.L. 93-580.

4/See, e.g., United States v. Kagama, 118 U.S. 375, 383-384 (1886).

(continued...)

trust responsibility.[6] Whatever terminology is used, it is based on the obligation which the United States assumed toward the Indian people through the government's dealings with the Indian people. Its first judicial recognition can be found as early as 1831 when the Supreme Court decided the case of Cherokee Nation v. Georgia, in which the court concluded that the Cherokees' "relation to the United States resembles that of a ward to his guardian."[7]

Although the trust obligation is most often discussed in regard to dealings in real property, it also extends to benefits provided through programs such as the Indian Health Service. See, e.g., Heckman v. U.S., 224 U.S. 413, 432, 56 L.Ed. 820, 828, 32 S.Ct. 424 (1912) (obligation to protect "personal rights"); Indian Health Care Improvement Act, 25 U.S.C. §1601(a).

A. The Snyder Act

The Federal Government's special trust obligation to provide health care arises from the Snyder Act, 25 U.S.C. §13, [8] which provides in pertinent part that:

> The Bureau of Indian Affairs under supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate, for the benefit, care, and assistance of the Indians throughout the United States for the

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5/(...continued)
5/See, e.g., Seminole Nation v. United States, 316 U.S. 286, 296-297 (1942).

6/Ibid.

7/30 U.S. 1 (1831).

8/Act of November 2, 1921, 42 Stat. 208.

> following purposes ... For relief of distress and conservation of health ... For employment of ... physicians ...

In reviewing the history of Indian health care in the United States for the purpose of the Indian Health Care Improvement Act, the United States Senate reported that the Snyder Act

> provided the formal legislative authorization for Federal Health Care for Indians. It authorized the Secretary of the Interior to expend funds for the "relief of distress and conservation of health of Indians." This short phrase of the Snyder Act continues to be the basic legislative statement of the Federal Government's obligation to provide health services to Indians.
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> Senate Report No. 94-133 on Indian Health Care Improvement Act (S.522), 94th Cong., 1st Sess., May 13, 1975, p. 24. [Emphasis added]

See also, House of Representatives Report 94-1026 on the Indian Health Care Improvement Act (H.R. 2525), 94th Cong., 2nd Sess., April 9, 1976, page 14.

The United States Supreme Court, in Morton v. Ruiz, discussed whether Snyder Act welfare benefits could be denied to Mr. and Mrs. Ruiz because they did not live on the reservation. The Supreme Court concluded that:

> The overriding duty of our Federal Government to deal fairly with Indians wherever located has been recognized by this Court on many occasions. [Emphasis added].
>
> * * *
>
> The denial of benefits to these residents under such circumstances is inconsistent with "the distinctive obligation of trust incumbent upon the Government in the dealings with these dependent and sometimes exploited people." [cit. om.]

> Morton v. Ruiz, 415 U.S. 199, 236, 39 L.Ed.2d 27, 94 S.Ct. 1055 (1974).

After the Ruiz decision, the Ninth Circuit Court of Appeals interpreted the Supreme Court's opinion and concluded:

> Ruiz stands for the principle that our government has an overriding duty of fairness when dealing with Indians, one founded upon a relationship of trust for these "... dependent and sometimes exploited people." The Snyder Act was enacted with this principle in mind, and its programs must be administered accordingly.
>
> Rincon Band of Mission Indians v. Harris, 618 F.2d 569, 572, (9th Cir. 1980).

In that case, the U.S. Court of Appeals held that the Federal Government had an obligation to provide California Indians with the same level and scope of health care services as it provides Indians throughout the U.S. The Court did not restrict its decision to federally-recognized Indians in California. Thus, the federal government owes a trust obligation and a duty of fairness to all California Indians to provide them with health care and should not be eliminating them from the service population.

B. The Transfer Act.

In order to provide better quality health care to the Indian people, the health care functions of the Bureau of Indian Affairs were transferred to the Public Health Service in 1954, through legislation known as the Transfer Act.[9/] The legislative history of the Transfer Act made express a broader preexisting federal duty to insure the conservation

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9/ 42 U.S.C. §2001.

of the health of Indians, and also makes it clear that this duty extends to all Indians.

C. The Indian Health Care Improvement Act.

The most recent statement by Congress of the special and continuing obligation of the federal government to provide health care services to the Indian people can be found in the Indian Health Care Improvement Act.[10/] In its Report on the Indian Health Care Improvement Act, the Senate stated:

> The most basic human right must be the right to enjoy decent health. Certainly, any effort to fulfill Federal responsibilities to the Indian people must begin with the provision of health services. In fact, health services must be the cornerstone upon which rest all other federal programs for the benefit of Indians. Without a proper health status, the Indian people will be unable to fully avail themselves of the many economic, educational, and social programs already directed to them or which this Congress and future Congresses will provide them.
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> Senate Report No. 94-133 on the Indian Health Care Improvement Act, supra, at 23.

See also House of Representatives Report 94-1026, supra, at 13.

The federal courts have recognized the Indian Health Care Improvement Act as creating a trust responsibility. In the case of White v. Califano, the United States Court of Appeals for the Eighth Circuit stated:

> "We think that Congress has unambiguously declared that the federal government has a legal responsibility to provide health care to Indians. This stems from the "unique relationship" between Indians and

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10/Public Law 94-437; 90 Stat. 1400; 24 U.S.C. §1601 et seq., hereinafter referred to as "IHCIA."

> the federal government, a relationship that is reflected in hundreds of cases and is further made obvious by the fact that one bulging volume of the U.S. COde pertains only to Indians."
>
> White v. Califano, 581 F.2d 697, 698 (8th Cir., 1978).

We believe that the currently proposed IHS eligibility regulations are not legally sustainable in view of the government's trust obligation to provide health care to Indians "throughout the U. S." Appropriations for IHS are currently made on the basis of the Snyder Act which does not distinguish between Federally-recognized Indians and Indians who are not members of federally-recognized tribes, and creates the trust responsibility to provide health care. Thus, the regulations, in making that distinction, go beyond the limits of permissible agency discretion for they are not consistent with the legislation they seek to implement. For this reason alone, Congress should intervene to prevent the regulations from taking effect with the resulting denial of care to so many California Indians.

II. THE FEDERAL GOVERNMENT'S COURSE OF DEALINGS WITH CALIFORNIA INDIANS CREATES A LEGAL RESPONSIBILITY TO PROVIDE HEALTH SERVICES

This Country's ambivalence and inconsistency toward Indians and Indian policy has impacted the California Indians more directly than any other group. Basically the treatment of Indian people has oscillated between two policy extremes. The first federal policy had its basis in the theories that Indian tribes have a unique status as sovereigns and that the United States has a special fiduciary responsibility toward Indians. Central to this philosophy was the notion that the

states were not to be involved in Indian affairs and should not be given jurisdiction over Indian lands. The second and opposite federal policy centered around the assimilation of the Indian people through granting the states jurisdiction over Indian lands and through stressing that Indians enjoy the same rights as other state residents. We see the new IHS regulations as an extension of this latter "termination" philosophy.

At the time of the entry of the white man into the area which later became California, more than 133,000 Indians were residing here.[11/] Their cultures flourished due to the abundance of natural food sources and the favorable climatic conditions.[12/] In California, as in the rest of the country, the Indian population was largely free from disease; however, beginning in about 1770, the Indians' health began to severely deteriorate because the Indians had no immunity to the diseases carried by the arriving Europeans. By 1850, due to introduced diseases, it is estimated that the Indian population had declined by 70%.

Indians were nearly overwhelmed by the tremendous numbers of aliens coming into all parts of California at nearly the same time, largely as a result of the gold rush of 1848. For the Indians, this massive migration westward began to create serious problems in obtaining adequate traditional food supplies due to the conversion of fertile valleys into

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11/Spencer, R.F., Jennings, J.S., et al., The Native Americans, Harper & Row, New York (1956), pp. 229-230.

12/Phillips, George Howard, Chiefs and Challengers, University of California Press, Berkeley (1975), p. 7.

farmlands, the use of the foothills for cattle ranching, and the pollution of streams. Moreover, the new Anglo-American system had no place for the Indians and resolved any conflicts with the Indians by either outright extermination or segregation on reservations.[13/]

Because of the massive migration westward, California soon became faced with the problem faced by other western states that had been recently settled, namely: keeping a sufficient supply of public lands available for preemption purposes.[14/] The solution chosen to deal with the problem was for Congress to send commissioners to enter into treaties with the California Indians regarding the territory those Indians occupied.

In 1851, the federal agents negotiated eighteen (18) treaties with California tribes. Some of these eighteen treaties required in part that the United States government was to supply health care.[15/] All of the treaties had as their major and central provision the surrender of the Indians' traditional lands in exchange for small reservations elsewhere.

When the California Legislature learned of the terms of these treaties, the State formally protested the granting of any lands at all to the Indians. As a result, the United

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13/Cook, Sherburne F., The Conflict between the California Indian and White Civilization, University of California Press, Berkeley (1976), p. 258.

14/Cohen, Felix, Handbook of Federal Indian Law, University of New Mexico Press, Albuquerque (1952), p. 62.

15/See, e.g., Kappler, Indian Affairs, Laws and Treaties, Volume IV, pp. 1112, 1122.

States Senate failed and refused to ratify these treaties when the treaties were brought before it in 1852.[16]

The Indians, thus, received the inequitable treatment that was by then typical in the government's dealings with them, for

> [t]he Indians, however, had already begun performance of their part of the agreement. Urged by government officials to anticipate the approval of the treaties they had started on the long journey to the proposed reservations. Now they found themselves in the unfortunate position of having surrendered their home for lands which were already occupied by settlers and regarding which the Federal Government showed no willingness to take action.[17]

The result was that many California Indians were forever left landless.

By the late nineteenth century, virtually all of the Indian tribes in California were involuntarily segregated from the rest of society and living on Indian reservations established through special acts such as the Mission Indian Relief Act (under which our member tribes received reservations) and through Presidential Proclamations. The forcible removal from their traditional habitat to the reservations placed Indian people in "a cycle of deteriorating health and increasing susceptibility to further illness."[18]

16/ Cohen, supra, at 62.

17/ Ibid.

18/ Report on Indian Health, Task Force Six: Indian Health: Final Report to the American Indian Policy Review Commission, U.S. Government Printing Office, Washington (1976), p. 27; hereinafter referred to as AIPRC, Report on Indian Health.

Throughout most of the 19th century, the United States had dealt with tribes elsewhere in the U.S. as semi-sovereigns and respected their identity and integrity, at least in theory. However, beginning with the General Allotment Act of February 8, 1887,[19] federal policy

> was to continue the reservation system and the trust status of Indian lands, but to allot tracts to individual Indians for agriculture and grazing ... with the purpose in part, of promoting interaction between the races and of encouraging Indians to adopt white ways.
> Mattz v. Arnett, 412 U.S. 481, 496 (1973).

Under this assimilationist policy, tribal governments atrophied and the national Indian land base shrank by 90,000,000 between 1887 and 1934.

The assimilation hoped for through the Allotment Act never occurred. By the start of the 20th century the Indian population was in a state of severe deterioration and distress. During this period, public outrage was growing in regard to the state of Indian health throughout the country.

For many years Indian health activities were financed from miscellaneous funds appropriated to the Bureau of Indian Affairs. The first major appropriation specifically for Indian health care was in 1911 and was in the amount of $40,000. Then in 1921 Congress passed the Snyder Act, discussed above, after which federal appropriations for medical care for Indians were greatly increased.

It was in the 1930's that the federal Indian policy again turned away from the assimilationist philosophy and

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[19] 24 Stat. 388, 15 U.S.C. §331 *et seq*.

toward the strengthening of tribal governments and continuation of the special status of Indians through the Indian Reorganization Act of June 18, 1934. The Johnson O'Malley Act of 1934 allowed the Bureau of Indian Affairs to contract with states, local governments, and private organizations to provide health care for Indians. In California, the majority of health care for Indians was furnished through such contracts prior to 1954.

In the early 1950's, Congress once again began enacting "termination" legislation that emphasized the assimilation of the Indian people, the end of the special federal status of Indians, and the granting of jurisdiction over the reservations to the states. This policy probably impacted California Indians more than Indians anywhere else in the country, and its effects are still felt today. As the Court stated in U. S. v. Hoodie, 558 F.2d 292 (9th Cir., 1978):

> The high water mark of the assimilationist era was the Act commonly known as Public Law 280 ... Section 2 of PL-280, the source of 18 U.S.C. §1162, transferred to five willing states including Oregon [and California] civil and criminal jurisdiction over all Indian country within their borders.
>
> Public Law 280 was, in the words of an Indian representative, "probably the most objectionable general legislation affecting Indians passed in the 20th century."

Federal Indian policy during the height of the termination period was geared toward ending the special status of Indians in general and California Indians in particular. Federal services were phased out and reservations were sold and the proceeds distributed to tribal

members.[20/] Simultaneously California was given a limited measure of civil and full criminal jurisdiction over individual reservation Indians, all in an effort to assimilate and integrate Indians into the dominant non-Indian society within a generation.

This thinking culminated in House Concurrent Resolution No. 108 of August 1, 1953. Among other things, this Resolution declared that all offices of the Bureau of Indian Affairs in California, then including the Indian health services, "should be abolished" as soon as California Indians had been "freed from Federal supervision and control." Concurrently, the state of California passed Assembly Joint Resolution No. 38 (filed with the Secretary of State, June 15, 1953) memorializing the U.S. Congress "to take such steps as are necessary" to terminate the authority of the Bureau of Indian Affairs in California. A number of tribes in California (and in several other states) had their special status ended and their lands withdrawn pursuant to the termination philosophy. And, most relevant to this discussion, all health services were withdrawn and the three Indian hospitals in the state were closed.

Although the termination policies of the 1950's were clearly repudiated in 1968, IHS did little to provide the Indians of California with the health services which they so desperately needed.

20/By its Act of August 18, 1958 (72 Stat. 619) and its amendment of August 11, 1964 (78 Stat. 390) Congress started a process by which some of the small Indian reservations in California (known as "rancherias") were eventually terminated.

According to one Indian Health Service publication:

> The termination of federal Health services to the Indians of California imposed severe health problems. Between 1955 and the present time no State, and very little county funds were made available to continue health services that were in effect prior to 1955. As a result, the health of the California Indians has deteriorated. Physical, geographic, financial and cultural isolation are some of the problems which work against the Indians in California from obtaining needed health care.[21]

Other factors that contributed to health problems in California included:

> Lack of communication, substandard and poor housing, environmental health problems, low income, unemployment ... distances to medical facilities, and also the Indians unique cultural background.[22]

Despite these and other similar accounts by the Indian Health Service personnel, the Indians in California were virtually neglected.

A report of the State Department of Public Health cited some upsetting facts and statistics, such as:

> The health status of the American Indian in California is measurably worse than that of the average California, and the obvious implication of all available data is that Indians in California do not obtain health services or use existing health facilities in their respective communities to any degree approximating that to which these services and facilities are used by the population as a whole. If they did increase use, the

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21/"Indian Health Information and Directory," Indian Health Service, Sacramento Field Office, Sacramento, California (1970), p. 1.

22/Id., at 4.

> medical resources currently available would be inadequate.[23]
>
> Their life span is short. The average age of death in California is 62 years; for Indians it is 42 years.[24]

Still another report from the State of California said that "[t]he conditions under which Indians live in California are the lowest of any minority group." One of the most widespread problems reported was the inability of Indians to take advantage of medical benefits provided to other low income residents of California:

> Many of the Medi-Cal patients in the area have been unable to obtain services from doctors ... since the doctors are not accepting more Medi-Cal patients ...

As a result of these reports and increasing pressure from the California Indians, a small amount of money was added to the IHS budget in the early 1970's to provide funding for the California Rural Indian Health Board. Yet, as recently as January, 1978, the health needs of the California Indians were 100% unmet, according to IHS.

Even the American Indian Policy Review Commission recognized that IHS breached its responsibility to provide health care services to the California Indians. In commenting on the Indian health situation in California their report stated:

> The abrogation of federal responsibility to California Indians represents one of

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23/ Cunningham, George C., "California Indian Health Project," (1969), p. 17.

24/ Id., at 16.

> the most flagrant examples of failed federal responsibility.[25]

It is our belief that the current IHS regulations represent yet another example of the "failed federal responsibility" for health care for California Indians. Moreover, this effort on the part of the federal government represents an unauthorized administrative reestablishment of the termination philosophy of the 1950's.

In fact, it was not until the Rincon Band of Mission Indians, in a class action on behalf of all California Indians, brought suit against IHS and won that suit in both federal district court and the U.S. Court of Appeals for the Ninth Circuit that the situation changed. See, Rincon Band of Mission Indians v. Harris, 618 F.2d 569 (9th Cir., 1980). After that judgment became final in 1980, we went to Congress to request added funding for California Indians for health care to implement the Court's decision that California Indians must be provided the same level and scope of services as Indians elsewhere in the U.S. As a result of our request, the Equity Fund was established which required IHS to fund California Indians. Despite the tremendous gains we have made in the last seven years in providing health care through the Equity Funds, California Indians still lag behind all other groups nationwide in terms of overall funding levels.

25/ Report on Indian Health, Task Force Six: Indian Health: Final Report to the American Indian Policy Review Commission, U.S. Government Printing Office, Washington (1976), page 162.

III. PROPOSAL FOR DEALING WITH ELIGIBILITY ISSUES.

It appears to us that IHS is using the guise of new eligibility criteria to cut back funding for California Indians once again and to, in effect, "terminate" them. And, this is being done with the full knowledge of the disproportionate effect the regulations will have in California vis a vis the rest of the country and of their de facto termination result here.

As we noted at the outset, we urge the Committee to take action to prevent IHS from utilizing its new eligibility regulations and to require them to return to their previous regulations which were codified at 42 C.F.R. §36.12. In the alternative, we request that IHS be required to immediately implement the California Indian eligibility provisions contained in §709 of S.129 and provide that the following California Indians be eligible for services:

> "(1) Any member of a federally recognized Indian tribe.
> (2) Any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant --
> (A) is living in California,
> (B) is a member of the Indian community served by a local program of the Service, and
> (C) is regarded as an Indian by the community in which such descendant lives.
> (3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California.
> (4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

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IV. OTHER ELIGIBILITY ISSUES.

Riverside-San Bernardino County Indian Health also requests that in addressing eligibility issues in general, you consider allowing the provision of care to non-Indian members of an eligible Indian's household. We have seen the problems created by the IHS change in regulations which now prohibit the treating of non-Indians in the household of an eligible Indian (with the exception of a woman who is pregnant with an Indian's child). It has been our experience that we cannot, in many circumstances, provide effective care for Indians if we cannot treat other members of their household as well. For example, if we are treating an Indian for drug abuse or alcoholism through providing counseling to that individual, we also need to counsel members of that Indians family and household, whether or not they are eligible for care. Without such counselling of the family, the individual's treatment is not effective. Or, if an Indian needs family counselling, we cannot provide that service if the other members of the household are not all eligible for care. Similarly, we have found that in the case of a family with Indian and non-Indian children, it is not effective to provide immunizations for only the Indian children and not the non-Indian children. In fact, providing treatment in this way is simply counter-productive when it comes to preventive health services.

It is our belief that the costs incurred for the treatment of non-Indians in an eligible Indian's family would have no substantial impact upon the cost of provision of

care, but would make the treatment of the Indians involved in that household more effective and perhaps less costly in the long run. We would urge the Committee to see that such care may be provided in the future; or if the Committee is reluctant to do so, that the Committee require that IHS do a study to determine the fiscal impact of that recent change in the regulations and the impact which a change back to the previous standards would have on the IHS budget.

CONCLUSION

We appreciate the opportunity to appear before you today and request that your Committee immediately intervene to insure that all California Indians continue to receive the comprehensive health care services to which they are entitled.

Dated: June 29, 1988

Respectfully submitted,

Southern Indian Health Council

Indian Health Council, Inc.

Riverside-San Bernardino
County Indian Health, Inc.

By: Barbara E. Karshmer
Barbara E. Karshmer
ALEXANDER & KARSHMER

Attorney for the above-named
Health Programs

Shasta Nation
P.O. Box 1054
Yreka, Ca. 96097

TESTIMONY OF THE SHASTA NATION BEFORE THE

SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

REGARDING ELIGIBILITY FOR INDIAN HEALTH SERVICES

JUNE 30,1988

Dear Senator;

The Shasta Nation is appearing before the Committee represented by Roy V. Hall, Jr., with the following concerns and requests:

I. Eligibility for Health Services

The Indian Health Services final rule on eligibility, which has been delayed by Congress, poses a very serious threat to our people who have no alternative for health care and are dependant on the services of IHS.

The Shasta Nation with 1,200 enrolled members are aboriginal to northern California signed a treaty with the United States in 1851 which was never ratified due to the rush for gold and California's request that the United Stated government not ratify any of the 18 treaties negotiated with tribes in 1851 and 1852. The Shastas have never been recognized as a tribe by the Federal Government, however, our people have been recognized as Indians and many have received public domain allotments and allotments on rancherias establised by the government for "homeless" Indians. Many presently have trust land.

Shasta people have received health services from Indian Health Services since the establishment of IHS in California and we request that the Senate Select Committee do everything within it's power to ensure that all California Indians continue to receive Indian Health Services, spacifically:

1. Any member of a Federally Recognized tribe
2. Any descendant of an Indian who was residing in California June 1, 1852, but only if such descendant is:
   a. living in California
   b. Is a member of the Indian community served by a local program of the Indian Health Services
   c. is regarded as an Indian by the community in which such descendant lives.
3. Any Indian who holds trust interest in public domain, National Forest, or Indian Reservation allotment in California

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4. Any Indian in California who is listed on the plan for distribution of the assets of California Rancherias and Reservations under the Act of August 18, 1958 (72 STAT. 619), and their descendants.

II. Federal acknowledgement

The Shasta Nation submitted a petition to the Department of the Interior for Federal Acknowledgement July, 1984, and the process has been very slow and is impeded by inconsistancies in the criteria to be met. If Senate Bill 129 does not pass and the administrations final rule on eligibility goes into effect before we gain our Federal Recognition, the Shasta Nation will be ineligible for Indian Health Services. The Acknowledgement Staff of the Department of the Interior testified before a Congressional Committee two months ago and stated that they can only process two such petitions in a single year. Therefore, we urge you to consider our request to direct the Indian Health Service to continue to provide health services to California Indians pursuant to the language contained in Senate Bill 129. We also ask that you intervene in the Federal Acknowledgement process and direct the Department of the Interior to process the petitions for acknowledgement in accordance with the regulations without the subrogation of those charged with the processing.

Thank you for your attention to our concerns.

Respectfully Submitted

Roy V. Hall Jr.

Roy V. Hall Jr.
chairman

RVH/mc
cc: Alan Cranston

NORTHERN CIRCLE
Indian Housing Authority

2191 South State Sr. • Ukiah, Calif. 95482 • 707-468-1336

TESTIMONY -

Off-Reservation Tribal Land
Acquisition Approval Delegated
to Area Directors of the Bureau
of Indian Affairs

Date: June 30, 1988

Presented by: Michael Knight, Chairman
Northern Circle Indian Housing Authority

Many small tribes in the State of California have lost their land bases through the years. I am not here to discuss the history of our people, let it suffice to say that some of us are just now accessing programs and funding to re-establish our tribal communities. We must follow the federal program processes and requirements that make this possible.

One of the most critical issues that has arisen in recent years is the approval of having land accepted into trust status by the federal government for the tribes. Tribes who are able to obtain funding for land acquisition have often worked within the governmental system for two years or more to achieve this

status. Once the documents to approve this action leave the local agency and area offices of the Bureau of Indian Affairs, they are sent to Washington D.C. for further review and approval. This is not an efficient nor timely way to process this acceptance.

I ask your support to immediately delegate authority to the Area Directors of the Bureau of Indian Affairs for Off-Reservation Tribal Land Acquisition approvals.

Thank you.

NORTHERN CIRCLE
Indian Housing Authority

2191 South State St. • Ukiah, Calif. 95482 • 707-468-1336

Testimony: Indian Housing

Date: June 30, 1988

Presented By: Michael Knight, Chairman
Northern Circle Indian Housing Authority

I would like to thank you for the opportunity to present information about the Indian Housing issues which affect members of many northern California tribes.

As the Chairman of Northern Circle Indian Housing Authority, I am involved in the daily struggle to provide adequate shelter to members of low and moderate income Indian families. Northern Circle Indian Housing Authority is an agency formed by tribal governments and authorized to obtain financing to plan, construct and manage homes. Our principle source of funding is the U.S. Dept. of Housing and Urban Development, Office of Indian Programs, Indian Housing Authority Program. Our organizational goals include to plan, construct and maintain decent, safe, sanitary, affordable homes for eligible families.

The structure and funding of the HUD-IHA program is the focus

of this presentation.

On December 21, 1987 Mr. Inouye introduced Senate Bill 1987, a bill to amend the United States Housing Act of 1937 to establish a separate program to provide housing assistance for Indians and Alaska Natives. The legislation is supported by many tribes and IHA's who participate in the provision of Indian Housing.

The legislation has been considered by the House as H.R. 3927 and has received favorable action in both the committee process and on the floor.

It is my understanding that you have reconciled the differences in the bills between the house and senate and that Congress is expected to act on the legislation in the near future.

My purpose in discussing the legislation is to inform you that Indian tribes who belong to Northern Circle Indian Housing Authority and other IHA's do support this legislation. I have attached copies of Resolutions adopted by Northern Circle Indian Housing Authority and its member tribes which support the legislation and many of the program issues which are addressed by the Act. I offer these Resolutions which were adopted over the past several years, to show that the need and support for change in the HUD-IHA program is not new, but rather that this legislation is a culmination of many years of

effort on the part of Indian country.

Mr. Inouye, we appreciate your efforts, interest and support, on behalf of Indian housing. However, we must now ask you to go even further and support a level of funding for the program which will allow us to meet the needs of our people. Funding for a minimum of 3000 units annually, increased funding for the acquisition of land bases for those tribes who have been rendered landless by actions of the federal government over the years, and also, and again, funding for the infrastructure to support our developing communities, the roads, water and wastewater disposal systems necessary to serve the homes.

I realize in this day of budget deficits and economic hardships, increased levels of funding for "social" programs is not a popular cause. I do not think that housing for Americas' homeless and underhoused, especially Native Americans, can be classified as merely a "social" program. It is far more - it is a necessity - it is a responsibility - it is an opportunity.

In closing, I ask not only that you support the Indian Housing legislation, but also that you support adequate funding levels for the program. Our future depends on our successes today, help give us the opportunity to create safe, decent, affordable homes and communities for our people.

NORTHERN CIRCLE
Indian Housing Authority

2135 South State St. • Ukiah, Calif. 95482 • 707-468-1336

RESOLUTION NO. 85-37

RESOLUTION OF THE BOARD OF COMMISSIONERS OF
THE NORTHERN CIRCLE INDIAN HOUSING AUTHORITY
OPPOSING CUTS IN INDIAN HOUSING ASSISTANCE

WHEREAS, Northern Circle Indian Housing Authority (NCIHA) is the duly established housing authority for ten small California Indian reservations in Northern California, known as rancherias; and

WHEREAS, NCIHA is the first housing authority to effectively serve these small, largely impoverished Indian communities; and

WHEREAS, some of NCIHA member tribes are recently restored reservations which have never received significant housing assistance from any source including the federal government and the Department of Housing and Urban Development (HUD) in particular, and for the last twenty (20) years have received absolutely no assistance of any kind from the federal government; and

WHERAS, the housing conditions on all of the NCIHA reservations which have not already received assistance from HUD through NCIHA are deplorable and woefully inadequate to provide decent, safe and sanitary housing to tribal members; and

WHEREAS, because of the total failure of the federal government in the past to satisfy its solemn trust duties to these tribes, the rancherias lack not only adequate housing stock but adequate infrastructure such as roads, water systems, sewer systems and other utilities; and

WHEREAS, the majority of the member tribes yet to receive housing assistance are the recently restored rancherias which have the greatest need for assistance; and

WHEREAS, HUD has already purchased land for some of these tribes in order to construct some of the housing units they so desperately need; and

WHEREAS, HUD has already issued program reservations to construct housing on these rancherias with the greatest need; and

WHEREAS, NCIHA understands that HUD is proposing cuts in its Indian Housing Program under the National Housing Act that would result in HUD dishonoring committments represented by its program reservations; and

WHEREAS, NCIHA has expended considerable funds and effort in reliance on these program reservations and the affected tribes have incurred costs and expended effort in reliance upon these same program reservations; and

WHEREAS, if this housing assistance is not provided by HUD through NCIHA these is no other available source of assistance that can provide the needed housing and related improvements and, therefore, satisfy the federal government's trust duty to these tribes which already have been ignored by the federal government for decades; and

WHEREAS, if the number of housing units administered by NCIHA is frozen at the level currently subject to approved ACC contracts, it will be extremely difficult, if not impossible, for NCIHA or its member tribes to effectively and economically manage the housing for which it is already responsible; and

WHEREAS, the conditions referred to in the preceding paragraph threaten to jeopardize the investment HUD has already made to improve the housing conditions on NCIHA member reservations, representing a potentially tragic waste of the taxpayers' money and an even more tragic loss to the member tribes;

NOW, THEREFORE, BE IT RESOLVED that the NCIHA Board of Commissioners opposes the cuts proposed by and/or for the HUD Indian Housing Program and urges that HUD protect its existing investment and honor its existing committments by completing its program of housing construction on NCIHA member reservations.

BE IT FURTHER RESOLVED that NCIHA opposes any cuts in the current level of housing assistance to Indians and that HUD increase its level of assistance in particular to California rancherias.

PASSED AND ADOPTED this 14th day of December, 1985 at a duly called meeting with a quorum present by the following roll call vote:

AYES: 13
NOES: 0
ABSTAINING: 0
ABSENT: 5

Gayle Zepeda

ATTEST:

Yvonne Campbell

NORTHERN CIRCLE
Indian Housing Authority

2135 South State St. • Ukiah, Calif. 95482 • 707-468-1336

RESOLUTION 85-32

WHEREAS, Northern Circle Indian Housing Authority is an Indian Housing Authority organized and operated pursuant to 24 CFR part 805 and

WHEREAS, the Northern Circle Indian Housing Authority program is regulated by 24 CFR part 913 - Definition of Income, Income Limits, Rent and Reexamination for the Public Housing and Indian Housing Programs, and

WHEREAS, 24 CFR part 913 section 106(b) (1) establishes that income is the full amount before any payroll deductions, of wages and salaries..., and

WHEREAS, Northern Circle Indian Housing Authority does not agree that the monthly payments should be calculated on "gross" income as per 24 CFR part 913 section 106 paragraphs (b) (1), and

WHEREAS, it is not equitable to establish monthly payments on funds not available to the family as net (disposable) income.

NOW THEREFORE BE IT RESOLVED that NCIHA opposes the regulatory requirement to figure monthly payment obligations on "gross" income and

BE IT FURTHER RESOLVED that NCIHA requests that 24 CFR part 913 section 106 paragraph (b) (1) be revised to read...The full amount after any payroll deductions of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.

CERTIFICATION

This is to certify that the foregoing resolution was duly considered by the Northern Circle Indian Housing Authority Board of Commissioners at a properly called meeting held on October 12, 1985, at which a quorum was present and that same was passed by a vote of 11 ayes, 0 nays, 0 abstentions.

DATED THIS 9th DAY OF November, 1985.

Gayle Zepeda
CHAIRPERSON

ATTEST: Genevieve Campbell
SECRETARY

NORTHERN CIRCLE
Indian Housing Authority

2135 South State St. • Ukiah, Calif. 95482 • 707-468-1336

RESOLUTION
85-21

WHEREAS, Northern Circle Indian Housing Authority is an agency established by tribal ordinances, pursuant to Code of Federal Regulations (CFR) 24 Housing and Urban Development - Part 805 Indian Housing, and

WHEREAS, this Indian Housing Authority was formed to plan, develop, construct and manage housing projects for low to moderate income Indian families, and

WHEREAS, regulations governing this program have been changed to increase the percentage of adjusted annual income paid by Indian families for rent to 30%, and

WHEREAS, these increases are now in effect and are causing undue hardship on Indian families occupying these "low-rent" project units, especially elderly and "moderate" income families.

NOW, THEREFORE BE IT RESOLVED, that the U.S. Senate and House of Representative take immediate action to repeal the 30% rule for HUD Indian Housing Authority program participants and revert to the "20% limit" or adopt a more reasonable formula to determine "adjusted" annual income, such as increase in general deductions and dependant allowances.

CERTIFICATION

The foregoing Resolution was duly adopted at a duly quorumed regular meeting of the Board of Commissioners held 10th day of August 1985, by a vote of 10 ayes, 0 nays, 0 abstaining.

Gayle Zepeda
CHAIRPERSON

ATTEST: Genevieve Campbell
SECRETARY

Hopland Band of Pomo Indians

P. O. Box 610
Hopland, California 95449
707 - 744-1647

RESOLUTION #8/18/85A

WHEREAS, The Hopland Band of Pomo Indians member of Northern Circle Indian Housing Authority which is an agency established by tribal ordinances, pursuant to Code of Federal Regulations (CFR) 24 Housing and Development - Part 805 Indian Housing, and

WHEREAS, this Indian Housing Authority was formed to plan, develop, construct and manage housing projects for low to moderate income families, and

WHEREAS, regulations governing this program have been changed to increase the percentage of adjusted annual income paid by Indian families for rent to 30%, and

WHEREAS, these increases are now in effect and are causing undue hardship on Indian families occupying these "low-rent" project units, especially elderly and "moderate" income families.

NOW THEREFORE BE IT RESOLVED, that the U.S. Senate and House of Represenatives take immediate action to repeal the 30% rule for HUD Indian Housing Authority program participants and revert to the "20% limit" or adopt a more reasonable formula to determine "adjusted" annual income, such as increase in general deductions and dependant allowances.

CERTIFICATION

The foregoing Resolution was duly adopted at a duly quorumed regular meeting of the Hopland Tribal Council held the 18 day of August 1985, by a vote of 5 ayes, 0 nays, 0 abstaining.

CHAIRPERSON

ATTEST: William Elliott

Redwood Valley Little River Band of Pomo Indians

P.O. BOX 499 / REDWOOD VALLEY, CALIFORNIA 95470 (707) 485-0431

RESOLUTION
NO. 85-10-2

WHEREAS, Redwood Valley Little River Band of Pomo Indians is a member of Northern Circle Indian Housing Authority which is an agency established by tribal ordinances, pursuant to Code of Federal Regulations (CFR) 24 Housing and Development - Part 805 Indian Housing, and

WHEREAS, this Indian Housing Authority was formed to plan, develop, construct and manage housing projects for low to moderate income families, and

WHEREAS, regulations governing this program have been changed to increase the percentage of adjusted annual income paid by Indian families for rent to 30%, and

WHEREAS, these increases are now in effect and are causing undue hardship on Indian families occupying these "low rent" project units, especially elderly and "moderate" income families.

NOW, THEREFORE BE IT RESOLVED, that the U.S. Senate and House of Representatives take immediate action to repeal the 30% rule for HUD Housing Authority program participants and revert to the "20% limit" or adopt a more reasonable formula to determine "adjusted" annual income, such as increase in general deductions and dependant allowances.

C E R T I F I C A T I O N

The foregoing Resolution was duly adopted at a duly quorumed regular meeting of the Redwood Valley Little River Band of Pomo Indians held the 20 day of October, 1985, by a vote of 7 ayes, 0 nays, 0 abstentions.

Rita Hoel
CHAIRPERSON

ATTEST: Elizabeth Hansen

PINOLEVILLE INDIAN COMMUNITY

108 WEST CLAY STREET
UKIAH, CALIFORNIA 95482

(707) 463-1454

RESOLUTION NO. 86-1

RESOLUTION OF THE PINOLEVILLE INDIAN COMMUNITY
OF THE POMO TRIBE OPPOSING
CUTS IN INDIAN HOUSING ASSISTANCE

WHEREAS, the Pinoleville Indian Community of the Pomo Tribe is a federally recognized Indian Tribe with a responsibility to promote the health and safety of its tribal members; and

WHEREAS, the Pinoleville Indian Community over which the governing council exercises jurisdiction lacks adequate decent, safe and sanitary housing for its tribal members; and

WHEREAS, the majority of the members of the tribe lack the resources to acquire for themselves decent, safe and sanitary housing and are forced to live in substandard housing or wish to live on the Pinoleville Indian Community's territory in order to maintain tribal relations and live and raise their children in their tribal community; and

WHEREAS, the tribe is eligible for assistance and/or has received some commitment from the Department of Housing and Urban Development (HUD) Office of Indian Programs to provide assistance in meeting this critical need for housing on the rancheria; and

WHEREAS, HUD has proposed cuts in its program to provide housing to reservation Indians that would deprive the tribe of housing that it desperately needs or dishonors commitments that HUD has already made to provide housing assistance to the tribe, which the tribe has relied upon; and

WHEREAS, the HUD Indian set aside program under the National Housing Act is the primary means by which the federal government fulfills its solemn trust duty which it owes to Indian tribes, including the Pinoleville Indian Community; and

WHEREAS, the Community has received in the past no or insufficient assistance from the federal trustee to allow it and its members to make beneficial use of the rancheria and, in fact, historically, the rancherias have been among the most neglected recognized tribes and housing conditions on the California rancherias are generally very poor:

NOW, THEREFORE, BE IT RESOLVED that the Governing Council of the Pinoleville Indian Community opposses the proposed cuts in the Indian set aside program and urges that HUD honor its existing commitments to provide housing assistance to Indian tribes, including the Pinoleville Indian Community.

BE IT FURTHER RESOLVED that the tribal council opposes any reduction in the funds currently provided to HUD and by HUD for Indian housing and, if anything, requests an increase in funding to better address the vast, currently unmet need for such housing.

PASSED AND ADOPTED at a duly scheduled meeting on January 12, 1986, with a quorum present by the following roll call vote:

AYES: 5

NOES: 0

ABSTAINING: 0

ABSENT: 2

Eddie P. Vedolla, Tribal Chairman

Jan. 12, 1986
Date

ATTEST:

Paul Allen, Secretary

Jan 12-86
Date

SHERWOOD VALLEY BAND OF POMO INDIANS

RESOLUTION #1/11/86 C

RESOLUTION OF THE SHERWOOD VALLEY TRIBAL COUNCIL
OF SHERWOOD RANCHERIA OPPOSING
CUTS IN INDIAN HOUSING ASSISTANCE

WHEREAS, the Tribal Council of the Sherwood Valley Rancheria is a federally recognized Indian Tribe with a responsibility to promote the health and safety of its tribal members; and

WHEREAS, the Sherwood Rancheria over which the tribal council exercises jurisdiction lacks adequate decent, safe and sanitary housing for its tribal members; and

WHEREAS, the majority of the members of the tribe lack the resources to acquire for themselves decent, safe and sanitary housing and are forced to live in substandard housing or wish to live on the Sherwood Rancheria in order to maintain tribal relations and live and raise their children in their tribal community; and

WHEREAS, the tribe is eligible for assistance and/or has received some commitment from the Department of Housing and Urban Development (HUD) Office of Indian Programs to provide assistance in meeting this critical need for housing on the rancheria; and

WHEREAS, HUD has proposed cuts in its program to provide housing to reservation Indians that would deprive the tribe of housing that it desperately needs or dishonors commitments that HUD has already made to provide housing assistance to the tribe, which the tribe has relied upon; and

WHEREAS, the HUD Indian set aside program under the National Housing Act is the primary means by which the federal government fulfills its solemn trust duty which it owes to Indian tribes, including the Sherwood Valley Rancheria; and

WHEREAS, the rancheria has received in the past no or insufficient assistance from the federal trustee to allow it and its members to make beneficial use of the rancheria and, in fact, historically, the rancherias have been among the most neglected recognized tribes and housing conditions on the California rancherias are generally very poor:

NOW, THEREFORE, BE IT RESOLVED that the tribal council of the Sherwood Valley Rancheria opposes the proposed cuts in the Indian set aside program and urges that HUD honor its existing commitments to provide housing assistance to Indian tribes, including the Sherwood Valley Rancheria.

2141 South State Street - Ukiah, California 95482
(707) 468-1337

Sherwood Valley Rancheria
Resolution #1/11/86 C
Opposition to Cuts in Indian Housing Assistance

BE IT FURTHER RESOLVED that the tribal council opposes any reduction in the funds currently provided to HUD and by HUD for Indian housing and, if anything, requests an increase in funding to better address the vast, currently unmet need for such housing.

C E R T I F I C A T I O N

The undersigned officers do hereby certify that the foregoing resolution was adopted at a duly held meeting of the Sherwood Valley Tribal Council, whereby a quorum was present, on Saturday, January 11, 1986 with a vote of 5 ayes, 0 nayes, 0 abstention.

Mike Knight
Mike Knight, Tribal Chairman

January 11, 1986
Date

ATTEST:

Gloria Lockart
Gloria Lockart, Vice-Chair

January 11, 1986
Date

Redwood Valley Little River Band of Pomo Indians

P.O. BOX 499 / REDWOOD VALLEY, CALIFORNIA 95470 (707) 485-0431

RECEIVED 1/6/86

RESOLUTION NO. 86-2-1

RESOLUTION OF THE REDWOOD VALLEY LITTLE RIVER BAND OF POMO INDIANS OPPOSING CUTS IN INDIAN HOUSING ASSISTANCE.

WHEREAS, the Redwood Valley Rancheria is a federally recognized Indian Tribe with a responsibility to promote the health and safety of its tribal members; and

WHEREAS, the Redwood Valley Rancheria over which the Tribal Council exercises jurisdiction lacks adequate decent, safe and sanitary housing for its Tribal members; and

WHEREAS, the majority of the members of the tribe lack the resources to acquire for themselves decent, safe and sanitary housing and are forced to live in substandard housing or wish to live on the Rancheria in order to maintain Tribal relations and live and raise their children in there Tribal community; and

WHEREAS, the tribe is eligible for assistance, and/or has received some commitment from the Department of Housing and Urban Developement (HUD) Office of Indian Programs to provide assistance in meeting this critical need for housing on the rancheria; and

WHEREAS, HUD has proposed cuts in its program to provide housing to reservation Indian Programs that would deprive the tribe of housing that it desperately needs or dishonors commitments that HUD has already made to provide housing assistance to the tribe which the tribe has relied upon; and

WHEREAS, the HUD Indian set aside program under the National Housing Act is the primary means by which the federal government fulfills its solemn trust duty which it owes to Indian Tribes, including the Redwood Valley Rancheria; and

WHEREAS, the Rancheria has received in the past no or insufficient assistance from the federal trustee to allow it and its members to make beneficial use of the rancheria and, in fact, recognized tribes and housing conditions on the California Rancherias are generally very poor;

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council of the Redwood Valley Rancheria opposses the proposed cuts in the Indian set aside program and urges that HUD honor its existing commitment to provide housing assistance to Indian Tribes including the Redwood Valley Rancheria.

BE IT FURTHER RESOLVED that the tribal council opposes any reduction in the funds currently provided to HUD and by HUD for Indian housing and, if anything, requests an increase in funding to better address the vast, currently unmet need for such housing.

PASSED AND ADOPTED at a duly scheduled meeting with a quorum present by the following roll call vote: January 2, 1986

AYES: 5

NOES: 0

ABSTAINING: 0

ABSENT: 2

Pete Hoel
TRIBAL CHAIRPERSON

ATTEST:

Elizabeth Hanson
SECRETARY

TYME MAIDU TRIBE
BERRY CREEK RANCHERIA
1779 Mitchell Avenue
Oroville, California 95966
(916) 534-3859

RESOLUTION
NO: 87-22

WHEREAS, The Tyme-Maidu Tribe of the Berry Creek Rancheria is a member of Northern Circle Indian Housing Authority and Northern Circle Indian Housing Authority is an Indian Housing Authority organized and operating pursuant to 24 CFR part 905, and

WHEREAS, the Northern Circle Indian Housing Authority program is regulated by 24 CFR part 913 - Definition of Income, Income Limits, Rent and Reexamination for the Public Housing and Indian Housing Programs, and

WHEREAS, 24 CFR art. 913 section 106(b) (1) establishes that income is-the full amount before any payroll deductions, of wages and salaries....., and

WHEREAS, The Tyme-Maidu Tribe of the Berry Creek Rancheria does not agree that the monthly payments should be calculated on "gross" income as per 24 CFR part 913 section 106 paragraphs (b) (1), and

WHEREAS, it is not equitable to establish monthly payments on funds not available to the family as net (disposable) income.

NOW THEREFORE BE IT RESOLVED that the Tyme-Maidu Tribe of the Berry Creek Rancheria opposes the requlatory requirement to figure monthly payment obligations on "gross" income, and

BE IT FURTHER RESOLVED that the Tyme-Maidu Tribe of the Berry Creek Rancheria requests that 24 CFR part 913 section 106 paragraph (b) (1) be revised to read, -The full amount after any payroll deductions of wages and salaries, overtime pay, commissions, fees tips and bonuses, and other compensation for personal services.

C E R T I F I C A T I O N

This is to certify that the foregoing Resolution was duly considered by the Tyme-Maidu of the Berry Creek Rancheria at a properly called meeting held on July 12, 1987 at which a quorum was present and that same was passed by a vote of 7 for, 0 against, 0 abstentions.

DATED THIS 13 DAY OF July, 1987.

Gus D Martin
Gus D. Martin, Chairman

ATTEST: Thelma E. Edwards
Thelma E. Edwards, Secretary

RESOLUTION
NO. 87-17

WHEREAS, Northern Circle Indian Housing Authority is an Indian Housing Authority organized and operating pursuant to 24 CFR part 905, and

WHEREAS, the Northern Circle Indian Housing Authority program is regulated by 24 CFR part 913- Definition of Income, Income Limits, Rent and Reexamination for the Public Housing and Indian Housing Programs, and

WHEREAS, 24 CFR art 913 section 106(b) (1) establishes that income is -the full amount before any payroll deductions, of wages and salaries ..., and

WHEREAS, Northern Circle Indian Housing Authority does not agree that the monthly payments should be calculated on "gross" income as per 24 CFR part 913 section 106 paragraphs (b) (1), and

WHEREAS, it is not equitable to establish monthly payments on funds not available to the family as net (disposable) income.

NOW THEREFORE BE IT RESOLVED that NCIHA opposes the regulatory requirement to figure monthly payment obligations on "gross" income, and

BE IT FURTHER RESOLVED that NCIHA requests that 24 CFR part 913 section 106 paragraph (b) (1) be revised to read, -The full amount after any payroll deductions of wages and salaries, overtime pay, commissions, fees tips and bonuses, and other compensation for personal services.

Certification

This is to certify that the foregoing Resolution was duly considered by the Northern Circle Indian Housing Authority Board of Commissioners at a properly called meeting held on July 11,1987 at which a quorum was present and that same was passed by a vote of 12 for, 0 against, 0 abstentions.

DATED THIS 11th DAY OF July 1987.

Gayle Zepeda
CHAIRPERSON

ATTEST: Alice Becerra
SECRETARY

RESOLUTION
NO. 87-18

WHEREAS, Northern Circle Indian Housing Authority is an agency established by tribal ordinances, pursuant to Code of Federal Regulations (CFR) 24 Housing and Development - Part 905 Indian Housing, and

WHEREAS, this Indian Housing Authority was formed to plan, develop, construct and manage housing projects for low to moderate income families, and

WHEREAS, regulations governing this program have been changed to increase the percentage of adjusted annual income paid by Indian families for rent to 30%, and

WHEREAS, these increases are now in effect and are causing undue hardship on Indian families occupying these "low rent" project units, especially elderly and "moderate" income families.

NOW THEREFORE BE IT RESOLVED, that the U.S. Senate and House of Representatives take immediate action to repeal the 30% rule for HUD Indian Housing Authority program participants and revert to the "20% limit" or adopt a more reasonable formula to determine "adjusted" annual income, such as increase in general deductions and dependant allowances.

CERTIFICATION

The foregoing Resolution was adopted at a duly quorumed regular meeting of the Board of Commissioners of Northern Circle Indian Housing Authority held the 11th day of July, 1987, by a vote of 12 ayes, 0 nays, 0 abstentions.

Dale Zepeda
CHAIRPERSON

ATTEST: Alice Becerra
SECRETARY

PINOLEVILLE INDIAN COMMUNITY
367 North State Street, Suite #204
Ukiah, CA 95482
(707) 463-1454

PINOLEVILLE INDIAN COMMUNTIY
347 North State Street
Ukiah, CA 95482

RESOLUTION NO. 8-87- GC3

RESOLUTION OF THE PINOLEVILLE INDIAN COMMUNITY
OPPOSING CUTS IN INDIAN HOUSING ASSISTANCE

The Pinoleville Indian Community is a federally recognized Indian Tribe by the United States of America through the Secretary of the Interior, pursuant to an order issued by the District Court of the Northern District of California, dated December 22, 1983, as an Indian Tribe possessed with inherent powers of Tribal self government; and

WHEREAS, The Pinoleville Indian Community Governing Council is the federally recognized governing body for the Pinoleville Indian Community, hereinafter referred to as the Tribe; and

WHEREAS, The Pinoleville Rancheria, over which the Tribe exercises jurisdiction lacks affordable, decent, safe and sanitary housing for tribal members; and

WHEREAS, Members of the Tribe lack the resources to acquire decent, safe and sanitary housing for themselves and are forced to live in substandard housing or wish to live within the Pinoleville Rancheria to maintain tribal relations and to live and raise their families within their tribal community; and

WHEREAS, The Tribe is eligible for assistance from the Department of Housing and Urban Development (HUD) Office of Indian Programs to provide assistance for meeting the housing needs on the Pinoleville Rancheria which currently are unmet; and

WHEREAS, HUD has proposed cuts in the HUD Program to provide housing to reservation Indians that would deprive the Tribal of housing that is critically needed; and

WHEREAS, The HUD Indian Housing Authority Program under the National Housing Act is the primary means by which the Federal Government fulfills its solemn trust obligation to Indian Tribes, including the Pinoleville Indian Community of the Pinoleville Rancheria; and

WHEREAS, The Tribe has received no or insufficient assistance from the Federal Trustee to Allow the Tribe or Tribal Members to make the most beneficial use of the rancheria and, historically, for the record, the rancherias have been among the most neglected recognized tribes and current housing conditions within the California rancherias are overall substandard to very poor:

NOW, THEREFORE, BE IT RESOLVED That The Tribe of the Pinoleville Rancheria opposes the proposed cuts in the Indian Housing Program.

BE IT FURTHER RESOLVED That the Tribe respectfully demands that HUD honor existing committments to provide housing assistance to Indian Tribes, including the Pinoleville Indian Community of the Pinoleville Rancheria.

AND FINALLY BE IT RESOLVED That The Tribe opposes any and all reductions in funds currently provided to HUD and by HUD for Indian Housing and requests an increase in funding to meet the current unmet and well documented need for Indian Housing.

C E R T I F I C A T I O N

This is to certify that the foregoing Resolution was duly adopted by a vote of 7 for, 0 against, and 0 Abstentions, at a duly called meeting of the Pinoleville Indian Community Governing Council, at which a quorum was present on the 2 day of Aug, 1987.

Marie Pollock August 2 1987
Marie Pollock, Chairperson Date

ATTEST: Paul Allen Aug 2-87
Paul Allen, Secretary Date

TYME MAIDU TRIBE
BERRY CREEK RANCHERIA
1779 Mitchell Avenue
Oroville, California 95966
(916) 534-3859

RESOLUTION

NO: 87-20

WHEREAS, The Tyme-Maidu Tribe of the Berry Creek Rancheria is a member of Northern Circle Indian Housing Authority which is an agency established by tribal ordinances, pursuant to Code of Federal Regulations (CFR) 24 Housing and Development - Part 905 and 913 Indian Housing, and

WHEREAS, this Indian Housing Authority was formed to plan, develop, construct and manage housing projects for low to moderate income families, and

WHEREAS, regulations governing this program have been changed to increase the percentage of adjusted annual income paid by Indian families for rent to 30%, and

WHEREAS, these increases are now in effect and are causing undue hardship on Indian families occupying these "low rent" project units, especially elderly and "moderate" income families.

NOW THEREFORE BE IT RESOLVED, that the U.S. Senate and House of Respresentatives take immediate action to repeal the 30% rule for HUD Indian Housing Authority program participants and revert to the "20% limit" or adopt a more reasonable formula to determine "adjusted" annual income, such as increase in general deductions and dependant allowances.

C E R T I F I C A T I O N

The foregoing Resolution was duly adopted at a duly quorumed regular meeting of the Tyme-Maidu Tribe of the Berry Creek Rancheria held the 12 day of July, 1987, by a vote of 7 ayes, 0 nays, 0 abstentions.

Gus D. Martin — 7-13-87
Gus D. Martin, Chairman — Date

ATTEST: Thelma E. Edwards — 7-13-87
Thelma E Edwards, Secretary — Date

TYME MAIDU TRIBE
BERRY CREEK RANCHERIA
1779 Mitchell Avenue
Oroville, California 95966
(916) 534-3859

RESOLUTION

NO: 87-21

RESOLUTION OF THE TYME-MAIDU TRIBE OF THE
BERRY CREEK RANCHERIA OPPOSING
CUTS IN INDIAN HOUSING ASSISTANCE

WHEREAS, the Tyme-Maidu Tribe of the Berry Creek Rancheria is a federally recognized Indian Tribe with a responsibility to promote the health and safety of its tribal members; and

WHEREAS, the Tyme-Maidu Tribe of the Berry Creek Rancheria over which the tribal council exercises jurisdiction lacks adequate decent, safe and sanitary housing for its members; and

WHEREAS, the majority of the members of the tribe lack the resources to acquire for themselves decent, safe and sanitary housing and are forced to live in substandard housing or wish to live on the Berry Creek Rancheria in order to maintain tribal relations and live and raise their children in their tribal community; and

WHEREAS, the tribe is eligible for assistance from the Department of Housing and Urban Development (HUD) Office of Indian Programs to provide assistance in meeting this critical need for housing on the Rancheria; and

WHEREAS, HUD has proposed cuts in its program to provide housing to reservation Indians that would deprive the tribe of housing that it desperately needs which the tribe has relied upon; and

WHEREAS, the HUD Indian Housing Authority program under the National Housing Act is the primary means by which the federal government fulfills its solemn trust duty which it owes to Indian tribes, including the Tyme-Maidu Tribe of the Berry Creek Rancheria; and

WHEREAS, the rancheria has received in the past none or insufficient assistance from the federal trustee to allow it and its members to make beneficial use of the rancheria and, in fact, historically, the rancherias have been among the most neglected recognized tribes and housing conditions on the California rancherias are generally very poor:

RESOLUTION NO: 87-21 PAGE 2

NOW, THEREFORE, BE IT RESOLVED that the tribal council of the Tyme-Maidu Tribe of the Berry Creek Rancheria opposes the proposed cuts in the Indian Housing Program and urges that HUD honor its existing committments to provide housing assistance to Indian tribes, including the Tyme-Maidu Tribe of the Berry Creek Rancheria.

BE IT FURTHER RESOLVED that the tribal council opposes any reduction in the funds currently provided to HUD and by HUD for Indian Housing and, if anything, requests an increase in funding to better address the vast, currently unmet need for such housing.

C E R T I F I C A T I O N

This is to certify that the foregoing Resolution was duly considered by the Tyme-Maidu of the Berry Creek Rancheria at a properly called meeting held on July 12, 1987 at which a quorum was present and that same was passed by a vote of 7 for, 0 against, 0 abstentions.

DATED THIS 13th DAY OF July, 1987.

Gus D. Martin

Gus D. Martin, Chairman

ATTEST: Thelma E. Edwards

Thelma E. Edwards, Secretary

SHERWOOD VALLEY BAND OF POMO INDIANS

July 14, 1987

To Congressional Representatives:

The Sherwood Valley Rancheria, as a member of the Northern Circle Indian Housing Authority has worked deligently toward our goal of providing safe, decent, sanitary, affordable housing to members of our tribe and other Indian families within the jurisdiction of our authority.

We are participating in the U.S. Department of Housing and Urban Development, Office of Indian Programs, Housing Production and Management Divisions Program. While NCIHA has been sucessful in obtaining a number of homes for member tribes, the need for Indian Housing in California is still well documented.

Recently the government has made recommendations regarding the future of the HUD-IHA program which include funding of 1000 to 2000 homes in FY 88.

Our tribe wishes to be on record as opposed to these recommendations. Further, it is our position that allocations to the HUD Office of Indian Programs should allow for a substantial increase in the number of homes available to the Indian community, up to 6000 homes per year.

Thank you for the opportunity to express our support of the HUD-Indian Housing Program.

Sincerely,

Mike Knight

Mike Knight,
Sherwood Valley Tribal Chairman

CC: housing file

2141 South State Street - Ukiah, California 95482
(707) 468-1337

SHERWOOD VALLEY BAND OF POMO INDIANS

RESOLUTION NO. 7/11/87-B
Resolution Opposing Cuts In Housing Assistance

WHEREAS, the Sherwood Valley Rancheria is a member of the Northern Circle Indian Housing Authority which is an angency established by tribal ordinances, pursuant to Code of Federal Regulations (CFR) 24 Housing and Development-Part 905 and 913 Indian Housing, and

WHEREAS, this Indian Housing Authority was formed to plan, develop, construct and manage housing projects for low to moderate income families, and

WHEREAS, regulations governing this program have been changed to increase the percentage of adjusted annual income paid by Indian families for rent to 30%, and

WHEREAS, these increases are now in effect and are causing undue hardship on Indian families occupying these"low rent" project units, especially elderly and "moderate" income families.

NOW THEREFORE BE IT RESOLVED, that the U.S. Senate and House of Representatives take immediate action to repeal the 30% rule for HUD Indian Housing Authority program participants and revert to the "20% limit" or adopt a more reasonable formula to determine "adjusted" annual income, such as increase in general deductions and dependant allowances.

C E R T I F I C A T I O N

The foregoing resolution was adopted at a duly called/noticed meeting of the Sherwood Tribal Council on the 11th. day of July, 1987 by a vote of 3 for, 0 against, 0 absentions.

Mike Knight
Mike Knight, Tribal Chairman

7/11/87
Date

ATTEST:

Margaret R. Hayden

7/14/87
Date

2141 South State Street - Ukiah, California 95482
(707) 468-1337

7-27-87

Redwood Valley Little River Band of Pomo Indians

P.O. BOX 499 / REDWOOD VALLEY, CALIFORNIA 95470 (707) 485-0361 Refer to: (707) 485-0361

RESOLUTION

NO. 87-7-1

WHEREAS, Redwood Valley Little River Band of Pomo Indians is a member of Northern Circle Indian Housing Authority and Northern Circle Indian Housing Authority is an Indian Housing Authority organized and operating pursuant to 24 CFR part 905, and

WHEREAS, the Northern Circle Indian Housing Authority program is regulated by 24 CFR part 913- Definition of Income, Income Limits, Rent and Reexamination for the Public Housing and Indian Housing Programs, and

WHEREAS, 24 CFR art 913 section 106(b) (1) establishes that income is -the full amount before any payroll deductions, of wages and salaries ..., and

WHEREAS, Redwood Valley Little River Band of Pomo Indians does not agree that the monthly payments should be calculated on "gross" income as per 24 CFR part 913 section 106 paragraphs (b) (1), and

WHEREAS, it is not equitable to establish monthly payments on funds not available to the family as net (disposable) income.

NOW THEREFORE BE IT RESOLVED that Redwood Valley Little River Band of Pomo Indians opposes the regulatory requirement to figure monthly payment obligations on "gross" income, and

BE IT FURTHER RESOLVED that Redwood Valley Little River Band of Pomo Indians requests that 24 CFR part 913 section 106 paragraph (b) (1) be revised to read, - The full amount after any payroll deductions of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.

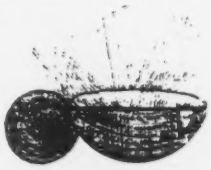
CERTIFICATION

This is to certify that the foregoing Resolution was duly considered by the Redwood Valley Litle River Band of Pomo Indians a properly called meeting held on Sunday, July 19, 1987 at which a quorum was present and that same was passed by a vote of 4 for, 0 against, 0 abstentions.

DATED THIS 19th DAY OF July.

Rita Hoel
CHAIRPERSON

ATTEST: Gayle Zepeda
SECRETARY



7-27-87

Redwood Valley Little River Band of Pomo Indians

P.O. BOX 499 / REDWOOD VALLEY, CALIFORNIA 95470 (707) 485-0361 Refer to: (707) 485-0361

RESOLUTION

NO. 87-7-2

WHEREAS, Redwood Valley Little River Band of Pomo Indians is a member of Northern Circle Indian Housing Authority which is an agency established by tribal ordinances, pursuant to Code of Federal Regulations (CFR) 24 Housing and Development - Part 905 and 913 Indian Housing, and

WHEREAS, this Indian Housing Authority was formed to plan, develop, construct and manage housing projects for low to moderate income families, and

WHEREAS, regulations governing this program have been changed to increase the percentage of adjusted annual income paid by Indian families for rent to 30%, and

WHEREAS, these increases are now in effect and are causing undue hardship on Indian families occupying these "low rent" project units, especially elderly and "moderate" income families.

NOW THEREFORE BE IT RESOLVED, that the U.S. Senate and House of Representatives take immediate action to repeal the 30% rule for HUD Indian Housing Authority program participants and revert to the "20% limit" or adopt a more reasonable formula to determine "adjusted" annual income, such as increase in general deductions and dependant allowances.

CERTIFICATION

The foregoing Resolution was duly adopted at a duly quorumed regular meeting of the Redwood Valley Little River Band of Pomo Indians held the 19th day of July, 1987, by a vote of 4 ayes, 0 nays, 0 abstentions.

Rita Hoel
CHAIRPERSON

ATTEST: Hazel Sepede

RESOLUTION NO. 88-2

RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE NORTHERN CIRCLE INDIAN HOUSING AUTHORITY
REQUESTING SENATOR ALAN CRANSTON TO
CO-SPONSOR SENATE BILL 1987

WHEREAS, Senator Daniel Inouye introduced Senate Bill 1987 on December 15, 1987, to add a new title to the National Housing Act of 1937; and

WHEREAS, this new title would establish separate legislative authority for Indian housing programs; and

WHEREAS, Indian housing programs on Indian reservations are sufficiently different from other public housing programs, because of the unique jurisdictional status of Indian tribes and reservations, to warrant separate legislation and rules; and

WHEREAS, consolidating policies and requirements for Indian housing and programs will make Indian housing programs more effective and efficient; and

WHEREAS, providing specific legislative authority for Indian housing programs will benefit those programs; and

WHEREAS, Indian housing programs in recent years have contributed substantially to the improvement of conditions on Indian reservations and rancherias in the state of California; and

WHEREAS, these programs are located throughout the State in both northern and southern California; and

WHEREAS, United States senators representing the State of California have an interest in promoting the Indian housing authorities in their efforts to improve housing conditions for Indian people;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Northern Circle Indian Housing Authority hereby requests Senator Alan Cranston to co-sponsor Senate Bill No. 1987 and the general purposes it seeks to promote and to consult with Indian housing authorities and Indian communities throughout the State in crafting a final version of Title II to the National Housing Act of 1937 that will serve those purposes.

Passed and adopted this 13th day of February, 1988 by the Board of Commissioners of the Northern Circle Indian Housing Authority, with 11 voting for 0 voting against and 0 abstaining.

Mike Ket
Chairperson

ATTEST: Harriet R. Stanley
Secretary of Board

RESOLUTION NO. 3-13-88

RESOLUTION OF THE Tribal Council
OF THE Hopland Band of Pomo Indians
REQUESTING SENATOR ALAN CRANSTON TO
CO-SPONSOR SENATE BILL 1987

WHEREAS, Senator Daniel Inouye introduced Senate Bill 1987 on December 15, 1987, to add a new title to the National Housing Act of 1937; and

WHEREAS, this new title would establish separate legislative authority for Indian housing programs; and

WHEREAS, Indian housing programs on Indian reservations are sufficiently different from other public housing programs, because of the unique jurisdictional status of Indian tribes and reservations, to warrant separate legislation and rules; and

WHEREAS, consolidating policies and requirements for Indian housing and programs will make Indian housing programs more effective and efficient; and

WHEREAS, providing specific legislative authority for Indian housing programs will benefit those programs; and

WHEREAS, Indian housing programs in recent years have contributed substantially to the improvement of conditions on Indian reservations and rancherias in the state of California; and

WHEREAS, these programs are located throughout the State in both northern and southern California; and

WHEREAS, United States senators representing the State of California have an interest in promoting the Indian housing authorities in their efforts to improve housing conditions for Indian people;

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council of Hopland Band of Pomo Indians hereby requests Senator Alan Cranston to co-sponsor Senate Bill No. 1987 and the general purposes it seeks to promote and to consult with Indian housing authorities and Indian communities throughout the State in crafting a final version of Title II to the National Housing Act of 1937 that will serve those purposes.

Passed and adopted this 3 day of March, 1988 by the Tribe of Hopland, with 5 voting for 8 voting against and 0 abstaining.

Tribal Chairperson

ATTEST: William Elliott
Tribal Secretary
(•nciha•docs•reso)

PINOLEVILLE INDIAN COMMUNITY
367 NORTH STATE STREET, SUITE #204
UKIAH, CA. 95482
(707) 463-1454

RESOLUTION #GC-2-88-1

THE PINOLEVILLE INDIAN COMMUNITY IS A FEDERALLY RECOGNIZED INDIAN TRIBE, RECOGNIZED BY THE SECRETARY OF THE INTERIOR OF THE UNITED STATES OF AMERICA, WITH THE INHERENT POWERS OF SELF-GOVERNMENT; AND

WHEREAS: Senator Daniel Inouye introduced Senate Bill 1987 on December 15, 1987, to add a new title to the National Housing Act of 1937; and

WHEREAS: this new title would establish separate legislative authority for Indian housing programs; and

WHEREAS: Indian housing programs on Indian Reservations are sufficiently different from other public housing programs, because of the unique status of Indian Tribes and Tribal lands, to warrant separate legislation and rules; and

WHEREAS: consolidating policies and requirements for Indian housing and programs will make Indian housing programs more effective and efficient; and

WHEREAS: providing specific legislative authority for Indian housing programs will benefit those programs; and

WHEREAS: Indian housing program sin recent years have contributed substantially to the improvement of conditions on Indian Reservations and Rancherias in the state of California; and

WHEREAS: these programs are located throughout the State in both Northern and Southern California; and

WHEREAS: United States Senators representing the State of California have an interest in promoting the Indian housing authorities in their efforts to improve housing conditions for Indian people;

NOW THEREFORE, BE IT RESOLVED
that the Pinoleville Indian Community hereby requests Senator Alan Cranston to co-sponsor Senate Bill No. 1987 and the general purposes it seeks to promote and to consult with Indian housing authorities and Indian communities throughout the State in crafting a final version of Title II to the National Housing Act of 1937 that will serve those purposes.

RESOLUTION #GC-2-88-1
Page 2

CERTIFICATION

This is to certify that the foregoing resolution was duly adopted by a vote of: 7 ayes; 0 nays; 0 abstain; at a duly called meeting of the Pinoleville Indian Community Governing Council, at which a quorum was present on this 7th day of Feb., 1988.

Marie Pollock

Marie Pollock, Chairperson
PINOLEVILLE INDIAN COMMUNITY

ATTEST:

Paul Allen

Paul Allen, Secretary
PINOLEVILLE INDIAN COMMUNITY

SHERWOOD VALLEY BAND OF POMO INDIANS

RESOLUTION 2/13/88-E

RESOLUTION of the SHERWOOD Valley RANCHERIA REQUESTING SENATOR ALAN CRANSTON to CO-SPONSOR SENATE BILL 1987

WHEREAS: Senator Inouye introduced Senate Bill 1987 on December 15, 1987, to add a new title to the National Housing Act of 1937, and

WHEREAS: this new title would establish separate legislative authority for Indian Housing Programs, and

WHEREAS: Indian Housing Programs on Indian Reservations and Rancherias are significantly different from other Public Housing Programs, because of the unique jurisdictional status of Indian Tribes to warrant separate legislation and rules, and

WHEREAS: consolidating policies and requirements for Indian housing will make Indian Housing Programs more effective and efficient, and

WHEREAS: providing specific legislative authority for Indian Housing Programs will benefit those programs, and

WHEREAS: Indian Housing Programs in recent years have contributed substantially to the improvement of conditions on Indian Reservations and Rancherias in the state of California, and

WHEREAS: these programs are located throughout the State of in both northern and southern California, and

WHEREAS: the United States Senators representing the State of California have an interest in promoting the Indian Housing Authorities in their efforts to improve housing conditions for Indian People.

NOW, THEREFORE, BE IT RESOLVED, that the Sherwood Valley Tribal Council of Sherwood Valley Rancheria hereby request Senator Alan Cranston to co-sponsor Senate Bill 1987 and the general purpose it seeks to promote and to consult with Indian Tribes and Indian Housing Authorities throughout the State in drafting a final version of Title II. to the National Housing Act of 1937.

2141 South State Street - Ukiah, California 95482
(707) 468-1337

CERTIFICATION

We, the undersigned officers of the Sherwood Valley Rancheria Tribal Council attest to a duly called meeting on February 13, 1988, the foregoing resolution was passed by a vote of 4 ayes, 0 nays and 0 abstentions.

Mike Knight

Mike Knight, Tribal Chairman

February 13, 1988
Date

Leslie Galliani

Leslie Galliani, Secretary

February 13, 1988
Date

TYME MAIDU TRIBE
BERRY CREEK RANCHERIA
1779 Mitchell Avenue
Oroville, California 95966
(916) 534-3859

RESOLUTION # 88-05

RE: Resolution of the Tyme Maidu Tribe of the Berry Creek Rancheria requesting Senator Alan Cranston to co-sponsor Senate Bill 1987.

WHEREAS, Senator Daniel Inouye introduced Senate Bill 1987 on December 15, 1987, to add a new title to the National Housing Act of 1937; and

WHEREAS, this new title would establish separate legislative authority for Indian housing programs; and

WHEREAS, consolidating policies and requirements for Indian housing and programs will make Indian housing programs more effective and efficient; and

WHEREAS, providing specific legislative authority for Indian housing programs will benefit those programs; and

WHEREAS, Indian housing programs in recent years have contributed substantially to the improvement of conditions on Indian reservations and rancherias in the state of California; and

WHEREAS, these programs are located throughout the State in both northern and southern California; and

WHEREAS, United States senators representing the State of California have an interest in promoting the Indian housing authorities in their efforts to improve housing conditions for Indian people;

NOW THEREFORE BE IT RESOLVED that the Tyme Maidu Tribe of the Berry Creek Rancheria hereby requests Senator Alan Cranston to co-sponsor Senate Bill No. 1987 and the general purposes it seeks to promote and to consult with Indian housing authorities and Indian communities throughout the State in crafting a final version of Title II to the National Housing Act of 1937 that will serve those purposes.

CERTIFICATION

The Tyme Maidu Tribe of the Berry Creek Rancheria's Tribal Council does hereby certify that at a meeting called, noticed and convened on the 23rd day of February, 1988, where a quorum was present, this action was duly adopted by a vote of 4 for, 0 against, and 0 abstaining.

Gus D. Martin
Gus D. Martin
Tribal Chairman

2-23-88
Date

ATTEST: Thelma E. Edwards
Thelma E. Edwards
Tribal Secretary

2-23-88
Date

PINOLEVILLE INDIAN COMMUNITY
367 NORTH STATE STREET, SUITE #204
UKIAH, CA. 95482
(707) 463-1454

RESOLUTION #GC-2-88-1

THE PINOLEVILLE INDIAN COMMUNITY IS A FEDERALLY RECOGNIZED INDIAN TRIBE, RECOGNIZED BY THE SECRETARY OF THE INTERIOR OF THE UNITED STATES OF AMERICA, WITH THE INHERENT POWERS OF SELF-GOVERNMENT; AND

WHEREAS: Senator Daniel Inouye introduced Senate Bill 1987 on December 15, 1987, to add a new title to the National Housing Act of 1937; and

WHEREAS: this new title would establish separate legislative authority for Indian housing programs; and

WHEREAS: Indian housing programs on Indian Reservations are sufficiently different from other public housing programs, because of the unique status of Indian Tribes and Tribal lands, to warrant separate legislation and rules; and

WHEREAS: consolidating policies and requirements for Indian housing and programs will make Indian housing programs more effective and efficient; and

WHEREAS: providing specific legislative authority for Indian housing programs will benefit those programs; and

WHEREAS: Indian housing program sin recent years have contributed substantially to the improvement of conditions on Indian Reservations and Rancherias in the state of California; and

WHEREAS: these programs are located throughout the State in both Northern and Southern California; and

WHEREAS: United States Senators representing the State of California have an interest in promoting the Indian housing authorities in their efforts to improve housing conditions for Indian people;

NOW THEREFORE, BE IT RESOLVED
that the Pinoleville Indian Community hereby requests Senator Alan Cranston to co-sponsor Senate Bill No. 1987 and the general purposes it seeks to promote and to consult with Indian housing authorities and Indian communities throughout the State in crafting a final version of Title II to the National Housing Act of 1937 that will serve those purposes.

RESOLUTION #GC-2-88-1
Page 2

CERTIFICATION

This is to certify that the foregoing resolution was duly adopted by a vote of: 7 ayes; 0 nays; 0 abstain; at a duly called meeting of the Pinoleville Indian Community Governing Council, at which a quorum was present on this 7th day of Feb., 1988.

Marie Pollock

Marie Pollock, Chairperson
PINOLEVILLE INDIAN COMMUNITY

ATTEST:

Paul Allen

Paul Allen, Secretary
PINOLEVILLE INDIAN COMMUNITY

HOPLAND BAND OF POMO INDIANS

POST OFFICE BOX 610 HOPLAND CALIFORNIA 95449 707-744-1647

TRIBAL CHAIRMAN
Donald Ray

VICE CHAIRMAN
Kenneth Arnold

SECRETARY
William Elliott

TREASURER
Marie Lincoln

MEMBERS
Beverly Rodriquez
Alice Brown
Diane John

TESTIMONY

ON

FINAL RULE GOVERNING ELIGIBILITY FOR HEALTH SERVICES
42 CFR, PART 36 DATED SEPTEMBER 16, 1988
PUBLISHED BY INDIAN HEALTH SERVICE

SUBMITTED TO:

THE HONORABLE DANIEL K. INOUYE, CHAIRMAN
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
OVERSIGHT INDIAN ELIGIBILITY FIELD HEARINGS

U.S. SENATE

SUBMITTED BY:

DONALD RAY, TRIBAL CHAIRMAN
HOPLAND BAND OF POMO INDIANS

JUNE 30, 1988

Mr. Chairman and members of the Committee:

My name is Donald Ray, I am the Tribal Chairman of the Hopland Band of Pomo Indians located in Mendocino County California. I am very pleased to be able to make oral testimony before your committee on the Indian eligibility final rule. Thank you for allowing me this opportunity. I pray you will hear the massive outcry of my people who are against this outrageous effort to perform genocide on the Indian people in California.

Since the very first treaty was signed, we have had to watch our backs from the very agencies assigned to protect our rights and interests. I am tired of government agencies interpreting the congressional acts as a vehicle to eliminate Indian people. The process was initiated by an agency that has only one thing in mind, to increase our dependency on Indian Health Services (IHS) staff for job security and reducing the funds that help provide good health care to our people. This frightening elimination of Indian people from health care throughout Indian country has to make one think! Does IHS really care about providing health care or does IHS just want to decrease the national budget?
What body of Government or persons have the right to (with the wave of a pen) doom 40 thousand Indian people in California to continual poor health conditions. I think an agency that has other interests at heart. It is easy setting in Rockville behind a desk thinking of ways to reduce funds being spent on health care for Indians. These people should be working on ideas to increase funds and the health of Indian people that is beneficial to Indians and not because of convienance for IHS staff or fits into the module on some computer in Rockville. We are humans, people who live and breath, we are not digits that fit comfortably on some video screen.
We know the problems on our reservations and given time we can manage those situations as we have done for the past 2000 years before IHS arrived.

Sometimes our methods have taken a while and they may seem primative but most decisions will take a considerable amount of time considering the magnitude of this problem.

The California Area is relatively new compared to other IHS areas of the United States since a court case within the last ten years forced federal health programs to be established. Our problems in California are not new they have been re-discovered by an agency that is suppose to do what is best for Indians! In the final rule Indian Health Service is asking us to do something that we find very difficult, too sanction denial of our Indian brothers and sisters because they do not belong to our individual Tribes. I do not believe that Congress of the United States intended this rule to sacrifice some Indian health conditions over others.

One of the latest weapons in the IHS arsenal is the key phrase "Tribal Consultation". This phrase is used by Area Planners, Statisticians and Area Directors to imply that we agree or even absent of agreement that verything has been approved by Tribal Governments because we have met, therefore to proceed in any direction which best fits the system.
For instance:

The Nashville meeting has been considered Tribal Consultation even through not one entire Tribal Government was present, sure, there were Tribal Chairman and Tribal representatives but they cannot past resolutions and laws without the consent of the entire Tribal Governing body that governs the respective Tribes. If true Tribal consultation is to happen then all Tribal Governments must be contacted to make an official government-to-government agreements.

In the California Area we as Tribal leaders are reluctant to go into the area Directors office and discuss issues on the chance this maybe construed as tribal consultation. A colleague and friend so humorously put it,"We are afraid to wave or acknowledge any IHS staff on the street or anywhere because it will be considered tribal consultation".

California has another problem that plagues many Indian groups. Indian families,groups and bands are not formally organized thus not recognized by the U.S. Government as a Tribal entity. This in turn forces IHS to make decisions to eliminate them because they have not expedited their recognition as a Tribal Government in the direction IHS needs to justify on health statistics reports. In essence these people are being penalized for not having the knowledge to implement a government entity!

In 1986 I attended a meeting in Rockville Maryland with the Area Director, at this meeting I found out California had only 1,400 Indian people recorded

as receiving services from our health facilities in the entire California area. I was shocked to find out we (California Area) did not have a reporting system designed to keep track of Indian patients using our facilities. After I returned and raised a fuss about our situation the area office finally implemented their present system. As of December 1987 the California area does not have an official count of patients that use our health clinics. Why was the California Area allowed to not have the same reporting requirements as the other areas?

In the past several pages I have touched upon numorous problems that face California Indian people. At this point I would like to present questions that May or May not be answered:

Why does every area have different reporting forms I cannot see how other areas are that much different?
Why is California the only area that has no IHS hospitals?
Why is California area the only one with the lowest amount of support staff in the entire IHS jurisdiction?
Why is the California area office trying to force the different regions in California to be divided into health care delivery units? The Tribes see no benefit from this re-organization except to keep the health clinics dependant upon Indian Health Service.

Why is the Area office imposing the Consortium concept upon the Tribes in Mendocino County by denying our right to contract under the 638 process? We are being forced to join a Consortium of Tribes to provide health care in Mendocino County. If we do not join then our individual contracts are terminated. Not once during this process has there been "Tribal Consultation", with the individual tribes and even tribes that have appeals pending, such as the Hopland Tribes administrative appeal.

Why is the Hopland Band of Pomo Indians contract appeal taking more time than it has given in the regulations? Our appeal has been in limbo since early March 1988.

These and many other questions must be answered before Hopland Reservation will support or sanction any new regulations submitted by the Indian Health Services.

In the testimony given by Dr. Everett Rhodes submitted before your committee on June 21, 1988, he openly admitts:

> "It is true that we do not have enough data to make reasonable impact estimates on an area by area or service unit by service unit basis".

Given this information from the top official of the Indian Health Service. Why is Indian Health Service trying to force the Tribes to sanction the eligibility criteria?

How can we as leaders of our respective Tribes sanction a process that will harm our people. If the person who iniatated this process does not know how it will effect the hundreds of thousands of Indians throughout the United States. We are not in Germany and this is not 1938. We are natives to this land and resent the fact that Dr. Rhodes is willing to gamble and/or experiment with the health conditions of our people!

If we as Indian people are entitled to true self-determination then we mustdetermine who is going to be served from the programs and agencies that were implemented to serve us. The very heart of the United States is based upon Native American laws and rights for individuals. The Constitution of the United States was formed around this model. I think we deserve the right and must demand our right to Self-government.

RECOMMENDATIONS

Given all the facts and information being submitted to this select committee the Hopland Band of Pomo Indians respectfully requests that:

1. The Secretary of the Department of Health and Human Services WITHDRAW the final rule on Indian Health Service (IHS) eligibility scheduled to go into effect in September 1988.

2. The Senate and Congress of the United States enact legislation during the next session which would:
   A. Require an indefinate moratorium on the implementation of any new regulations.

B. Require Congress to allocate funds to a Tribal Task force of California Indians for the purpose of conducting an assessment of the California Health Service Delivery Area (CHSDA) region by region concerning the impacts of various alternative changes in the IHS eligibility criteria.

C. If recommendation (B) is not feasible then we recommend that IHS Central office Director Dr. Rhodes be required to allocate such funds to the California Area Task force for this purpose.

D. Recommend the Tribal Task force be an independant and unbiased body that will provide resolutions to these problems satisfactorly to IHS and Tribal Governments throughout California.

E. Require the Task force to provide a report to Congress and this Committee and to the Tribal Governments the findings and assessments with recommendations to all parties this impacts.

F. Establish by statue the current Indian Health Service eligibility criteria for IHS services.

The Hopland Band of Pomo Indians feel if these recommendations are followed that many Tribal Governments will at the very least be able to give positive direction to the Indian Health Service concerning health issues in the California Area.

Thank you for you time and interest by allowing the Tribal Governments an opportunity to air our deepest concerns. We know your support will give guidance to the Congress and Senate of the United States.

TESTIMONY BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS,
SENATE SELECT COMMITTEE OVERSIGHT ELIGIBILITY FIELD HEARING.

JUNE 30, 1988

MR. CHAIRMAN, MEMBERS OF THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, MY NAME IS JENNIE GARFIELD, AN ENROLLED MEMBER OF THE TULE RIVER TRIBE, LOCATED IN TULARE COUNTY, CALIFORNIA. AS AN ELDER OF MY TRIBE, I WISH TO EXPRESS MY APPRECIATION TO YOU FOR AFFORDING ME THIS OPPURTUNITY TO TESTIFY BEFORE YOU TODAY.

1 AS CHAIRMAN OF OUR ELDERS PROGRAM, "THE HERITAGE UNIT", WE ARE ATTEMPTING TO DEVELOP A COMPREHENSIVE NATIVE AMERICAN ELDERS PROGRAM ON THE RESERVATION. THE ELDERLY THERE ARE RECOGNIZED BY OUR LOCAL TRIBAL GOVERNMENT WHEN THEY REACH THE AGE OF 50 YEARS.

3 CALIFORNIA TRIBAL PROGRAMS BRINGS SPECIAL COMPLEXITIES TO THE UNITED STATES CONGRESS BECAUSE OF OUR GEOGRAPHY, DIVERSITY OF TRIBAL GOVERNMENTS, THE TRIBAL STRUCTURES OF SOME RESERVATIONS, AND THE LACK OF FULL FUNCTIONING TRIBAL GOVERNMENTS AS COMPARED TO OTHER STATES THAT HAVE INDIAN COUNTRY.

2 ALTHOUGH THE TULE RIVER INDIAN RESERVATION HAS BEEN FUNDED WITH A TITLE VI NUTRITION PROGRAM, SERVICES HAS BEEN VERY LIMITED. THE TULE RIVER ELDERS ARE NOT RECEIVING FULL-SERVICES THROUGH EITHER TITLE VI OR THROUGH THE TITLE III STATE NUTRITION PROGRAMS. THE POINT I MAKE ABOUT THE TULE RIVER NUTRITION PROGRAM IS THE LACK OF SERVICES WE RECEIVE, YET WE STILL HAVE TO MEET CERTAIN QUALIFYING ELIGIBILITY REQUIREMENTS TO RECEIVE THESE LIMITED SERVICES. THE PROPOSED IHS ELIGIBILITY REQUIREMENTS WOULD FURTHUR IMPACT THE TULE RIVER ELDERS IN A NEGATIVE SENSE, BECAUSE THE TULE RIVER RESERVATION CRITERIA FOR ENROLLMENT IS IN CONFLICT WITH THE PROPOSED IHS ELIGIBILITY RULE.

MR. CHAIRMAN, WE ASK THAT YOUR COMMITTEE, THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, MAKE EVERY EFFORT TO SEE THAT THE FINAL RULE ON IHS ELIGIBILITY BE ABOLISHED. WE WOULD ALSO REQUEST THAT YOUR COMMITTEE HOLD ADDITIONAL OVERSIGHT HEARINGS IN CALIFORNIA, PARTICULARLY AT THE LOCAL RESERVATION LEVELS. THIS CONCEPT WOULD AFFORD THIS COMMITTEE A BROADER OUTLOOK OF THE PROBLEMS AND CONCERNS CALIFORNIA TRIBES NEED TO RESOLVE.

I THANK YOU AGAIN FOR THIS OPPURTUNITY TO ADDRESS YOU MR. CHAIRMAN.

SINCERELY,

JENNIE GARFIELD J. G.

SANTA ROSA RANCHERIA

16835 Alkali Drive • Lemoore, CA 93245 • Phone (209) 924-1278

June 30, 1988

We call each other Inyana which means relative to one another. The village near our rancheria has been occupied by our descendants 4,000 years. Tulare Lake has been a sacred shelter for our people 16,000 years. Yet, the earth of our people has grown smaller and we see her sickened by pollution from the mind and hand of human beings. Some of our elders have expressed their dissatisfaction with our government. You remove us from our homeland, kill our earth, and then ask opinions about political ways to make our life better?

The U.S. Congress denied us dignity and rights to live on our land according to treaties made with our tribe and others. The Barbour Treaties of 1850 were not ratified because the State of California did not consider us to be human or deserving of a place to live. So many words have been spoken to us that have been untrue. The government was sued for the dishonor and disrespect shown to our tribes. They paid money to make the wrong go away. Yet, their wrong remains.

Many of our tribes were terminated and told they no longer had rights as Indians. They were told to pay property taxes on their tribal homelands and rancherias. They were told the State of California, who was their enemy, would help them to be ruled and survive in the economic way of the non-Indian. We were told it would be good for our tribe to terminate our relationship with the U.S. Congress and the B.I.A. We did not do this. Government people told us crazy things and said it would be better if we followed their way. Things got worse for anybody who followed their way. It is the same today.

Federal agencies as the B.I.A. and I.H.S. are not set up to administer policies; they exist to enforce policies. This allows the system to dominate tribal governments and does not allow small tribes with little government structure to economically survive. "Self Determination" is a government concept which has not been implemented among our tribes in the 14 years since we were told it was all right for us to determine our own destiny as Indians. The big joke in California is that there are as many different documents such as constitutions, By-laws, etc., which are the legal basis for federal recognition as there are cures for AIDS. This means that many of our tribal governments attesting sovereignty need to modify and standardize the legal basis for their recognition as a tribe. Many tribes still have to work within blood quantum and membership requirements that seem to be unwise and detrimental to the future of the tribe.

The "638" contract process between B.I.A. and I.H.S. and our tribe has only one workable example. Our alcohol and drug counseling program is administered within the parameters of a "638" contract with I.H.S. The "638" contract process seems to be ignored or else useless to the agencies responsible for service relationships with California tribes. I have heard that one reason given for the lack of contracts is the poor track record of tribes in terms of contract compliance. The reality is that tribal governments are expected to possess increasingly sophisticated skills to obtain favorable contracts. The majority of our people do not possess or want to posses this skill. Besides, there are very few training programs provided by the agencies who desire tribal people to function in this manner.

Our people should not suffer because they do not fit into a system file or are not federally recognized or not legally eligible for services. The sad truth is that some of our people will die before their time, and some of our people will suffer because they are not eligible for

treatment. Some of them will not live in the right HRDA zone of health service delivery. Some of them will not have access to clean environments, running water, power, etc., because they are not federally recognized even though they are of Indian descent living on Indian trust land. The sad truth is that our systems of social order cannot understand or provide any help to a large number of our Indian people in California.

Many of our people have been advised to seek or regain federal recognition as a tribe. Yet, this process is so cumbersome and lengthy that many of our people will have long since been dead before any action is taken by the government. Equally distressing is the fact that none of our people seeking federal recognition has status as an Indian or is eligible for services until they have completed the government application process and been approved. We currently have a significant number of Indian people in California who live in some of the worst kind of circumstances imaginable.

Some of the recommendations of the 1984 California Indian Task Force which were submitted to the Assistant Secretary of Indian Affairs have been implemented. Many of the recommendations have been ignored or condemned by the B.I.A. and I.H.S. as being too costly and beyond their capability to implement. The irony is that Asst. Secretary Swimmer met with California Indian tribal leadership in 1986 and misled the entire delegation. He was poorly counseled and gave incorrect responses to two of the three recommendations for economic development contained in the task force report. This damaged his credibility in my understanding and in the minds of other tribal leaders in California.

I do not wish to imply that all things in California are terrible between our tribe, B.I.A., and I.H.S. Our primary difficulty is with the Area Director of the B.I.A., Maurice Babby. His personality is offensive

and he does not seem to possess or utilize the management skills whic h are supposed to exist among members of the Senior Executive Service level of civil service. Our main problem with the I.H.S. concerns the growth of the Area Office staff in Sacramento at the expense of clinical and program staff in our Indian communities.We face cutbacks in our clinical service program in the central valley area, while the staff and budget for the Area Office increases. This is not to our advantage or helpful to the I.H.S.

I have some recommendations which I would like to share with this oversight hearing committee.

1. The U.S. Congress should abolish I.H.S.

   eligibility regulations for California Indians and maintain the status quo,subject to information from Indian communities.

2. I request that Senator Inouye hold additional oversight hearings in California so the U.S. Congress can be aware of Indian concerns which tend to be unique to California.

3. I request that Senator Dennis DeConcini consider California as as priority area for investigation into fraud, abuse, and administrative liability by some federal agencies in their relationship with California Indian people.

Respectfully submitted

Clarence Atwell Jr.

Clarence Atwell, Jr.
Tribal Chairman

PREPARED STATEMENT

OF

JANE WYATT, CHAIRPERSON, TRIBAL COUNCIL, PICAYUNE RESERVATION

I am Jane Wyatt, a California Chukchansi Indian. I am also of the Tribal Council of Picayune Reservation in Coarsegold, California. On behalf of our 400 members, I am recommending that Code 42 of the Federal Regulations, Part 36, dated September 16, 1987, pertaining to the final rule governing who may or may not receive health care services from Indian Health Service (IHS) to be rescinded and revoked immediately. This request is consistent with the Tribal Resolution signed in May, 1988 by 75 tribes at a tribal leaders meeting in Nashville, TN. This final rule on Eligibility, if it should become law on March 15, 1989 will eliminate health care services for approximately 70,000 California Indians.

There were 18 treaties negotiated with the Federal Government from 1851 until 1852 which were never ratified by Congress, leaving each time, more California Indians with no access for health services or funds with which to purchase health care services. Our people will once again become the victim of deliberate actions by the Federal Government to eliminate their responsibilities in providing funds and/or health, education and social services in lieu of taking our lands.

IHS was created in 1956 under the Public Health Service Division in an effort to increase resources and upgrade efficiency in the provision of health care services for American Indians.

In spite of IHS' greater prestige, they have failed to bring the general health status of American Indians in parity with all others, i.e., infant mortality rate is four times higher than the general population, the life expectancy rate is 20 times less than the average American.

To insure the health status does not bottom out for our people, we are urging the U. S. Senate to take positive, immediate action to reaffirm S. 129 (Reauthorization of the Indian Health Care Improvement Act, P.L. 94-437). This action would insure that health care services for American Indians and Alaska Natives will not be terminated. We are urging the U. S. Congress to rescind and revoke the final rule on Health Care Services Eligibility. This action would demonstrate a good faith effort with the American Indian.

TESTIMONY
TO THE

SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

ON BEHALF OF

THE SANTA YNEZ INDIAN RESERVATION

Presented by: Reginald Steven Pagaling, Council Member
Santa Ynez Indian Reservation
P. O. Box 517
Santa Ynez, California 93460

SANTA YNEZ INDIAN RESERVATION
LAND OF THE CHUMASH

P.O. Box 517
Santa Ynez, California 93460
(805) 688-7997

BUSINESS COUNCIL
James P. Pace, Chairman
George Armenta, Vice-Chairman
Rosa M. Pace, Secretary/Treasurer
Vincent Gomez
Reginald S. Pagaling

Mr. Chairman, on behalf of the Santa Ynez Indian Reservation, and the American Indian constituency it represents, I am honored to have this opportunity to present testimony before your committee. Our reservation is located in Santa Barbara County, two hours north of Los Angeles. Up until the past year, our reservation's boundaries only extended to 99 acres. It now totals 127, while only sixty (60%) percent of the land is fit for human use. President Reagan's western home, his Santa Barbara ranch, overlooks the Santa Ynez Reservation. In fact, the access road to the President's ranch is less than one mile from the reservation's boundaries!

I wish to express our sincere gratitude to you Chairman Inouye for arranging this field hearing on the IHS Eligibility Issue. The IHS Eligibility regulation would impact our tribe adversely if it were implemented as it is written today. The Santa Ynez Tribe requests the Senate Select committee to support and initiate legislation that will abolish the IHS Eligibility regulation. An example of such legislative support would be S.2382, authored by Senator Melcher.

While utilizing the existing criteria, services are extended to tribal members who are direct decendants however, under the proposed IHS Eligibility regulations an estimated 150% of our pending Tribal members would not qualify. The IHS supports the use of BIA's Tribal enrollment figures, yet the BIA's Tribal enrollment department is backlogged five (5) years with pending tribal enrollment request. Those Tribal members who do not live within the proposed IHS Service Delivery Areas would no longer be eligible for health care services. In addition to our own tribal members the increase of relocated American Indian families is on the rise by an estimated 10% to 15% annually with no projected budget increase to address those needs. Our current funding level of contract health care only meets fifty-one (51%), percent of those needs. Funding for hospitalization is very limited and practically nil.

As we previously mentioned, the Melcher Bill (S. 2382) addresses the concerns of our tribe as well as tribes and Indian organizations nationwide. This legislation identifies four specific areas of concern:

First, it imposes a three (3) year moratorium on the implementaion of any new rules which would change the existing eligibility criteria.
Second, it requires the Secretary, acting through the IHS to conduct a study to determine the impact of any changes is eligibility.
Third, it requires the IHS to consult with the Indian Tribes which would be affected by any changes in eligibility.
Fourth, it requires the Secretary to report to Congress on the study with, comments from Tribes, Rural and Urban Indian health groups on the report, so that it can evaluate the relative costs and benefits of any changes.

The Santa Ynez Tribal Council requests the Senate Select Committee on Indian Affairs to hold additional oversight field hearings in California to address our numerous tribal needs. We thank you Mr. Chairman for providing an opportunity to hear from our tribe and other Indian organizations statewide.

TESTIMONY BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS OVERSIGHT ELIGIBILITY FIELD HEARING, SACRAMENTO, CALIFORNIA JUNE 30, 1988 BY EXECUTIVE DIRECTOR PATRICK RENICK, CALIFORNIA TRIBAL HEALTH ASSOCIATION.

CHAIRMAN INOUYE, SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, MY NAME IS PATRICK RENICK, THE EXECUTIVE DIRECTOR OF THE CALIFORNIA TRIBAL HEALTH ASSOCIATION. THE CTHA CONSORTIUM IS COMPOSED OF 27 TRIBES, THESE TRIBES CONTRACT AND ADMINISTER'S THE OPERATION OF SEVEN OUT-PATIENT CLINICS PROVIDING SERVICES TO 14,500 CALIFORNIA TRIBAL INDIANS.

AS EXECUTIVE DIRECTOR OF CTHA, I HAVE BEEN DIRECTED TO REQUEST THE SENATE SELECT COMMITTEE CHAIRMAN TO INITIATE OR SUPPORT LEGISLATION TO ABOLISH OR PLACE A THREE YEAR MORATORIUM ON THE IHS ELIGIBILITY REGULATIONS. MORE IMPORTANTLY IS THE ISSUE OF HAVING THE SUBCOMMITTEE FUND THIS THREE-YEAR IMPACT STUDY, AND DESIGNATING THE CALIFORNIA TRIBAL HEALTH ASSOCIATION AS THE ADMINISTERING ORGANIZATION. NO OTHER ORGANIZATION IN CALIFORNIA HAS A BROAD TRIBAL 638 REPRESENTATION NOR SUBSTANTIAL COMPLIANCE WITH THE INDIAN SELF-DETERMINATION ETHIC IN CALIFORNIA.

CTHA'S ADMINISTERING OF THIS STUDY WOULD INSURE THAT THE INDIAN HEALTH SERVICE RECEIVES MEANINGFUL IMPUT FROM TRIBAL LEADERS, THIS, QUITE FRANKLY, HAS NOT BEEN THE CASE IN THE PAST.

TRIBAL CONSULTATION IS A NECESSARY INGREDIENT FOR THE SUCCESS OF THIS PROPOSED IMPACT STUDY IN MY OPINION. IN THE PAST, IHS INITIATIVES HAVE FAILED BECAUSE THEY WERE PRECEIVED AS PREDETERMINED DIRECTIVES WITH NO OPPORTUNITIES FOR TRIBAL IMPUT.

ANOTHER AREA OF CONCERN FOR CALIFORNIA INDIANS IS THE NEED FOR BRINGING THE STATE INTO PARITY WITH FUNDING LEVELS IN OTHER IHS SERVICE AREAS. OUR TRIBAL INDIANS ARE SPREAD AMONG SOME 94 RESERVATIONS AND RANCHERIAS. THESE INDIANS ARE GEOGRAPHICALLY DIVERSE

AND MANY LIVE IN COUNTIES WHERE THERE ARE NO LOCAL PROGRAMS TO ADEQUATELY ADDRESS THE HEALTH NEEDS OF THEIR INDIAN POPULATIONS. CALIFORNIA'S IHS BUDGET IS THE LOWEST IN THE NATION AS FAR AS PER CAPITA PAYMENTS FOR INDIAN HEALTH CARE. IN 1981, THE RINCON BAND OF MISSION INDIANS IN SOUTHERN CALIFORNIA FILED A LAW SUIT AGAINST THE FEDERAL DEPARTMENT OF HEALTH EDUCATION WELFARE ASKING FOR EQUITY OF HEALTH SERVICES IN CALIFORNIA. THE RINCON LAW SUIT WAS RENDERED IN FAVOR OF THE RINCON TRIBE, THE FEDERAL COURT ORDER WAS OBEYED FOR THE FIRST YEAR. THE IMPACT OF THE MONEY HAS DEMINISHED OVER THE YEARS AS THE IHS BLENDED THE MONIES INTO THEIR NATIONAL BUDGET AND OTHER SERVICE AREAS ACROSS THE NATION.

THE PROPOSED IHS ELIGIBILITY REGULATIONS WILL SEVERELY IMPACT ANY REGIONAL TREATMENT CENTER IN CALIFORNIA FOR TREATMENT OF ALCOHOL DRUG PATIENTS. THE PROPOSED TREATMENT CENTER HAS BEEN AUTHORIZED THROUGH P.L. 99-570 UNDER THE OMNIBUS DRUG BILL, BUT IMPLEMENTATION HAS BEEN DECELERATED WITHIN THE INDIAN HEALTH SERVICE ADMINISTRATION.

AS I HAVE MENTIONED, WE HAVE THE LARGEST INDIAN POPULATION IN THE COUNTRY. THE RELOCATION AND URBANIZATION OF MANY INDIANS IN CALIFORNIA HAS AGGRAVATED THE DRUG AND ALCOHOL STATISTICS OF OUR STATE. POVERTY AND HIGH UNEMPLOYMENT HAVE GIVEN RISE TO HIGH STATISTICS WHEN IT COME TO ALCOHOL DRUG ABUSE ON RESERVATIONS AND RANCHERIAS. THE PROCESS FOR APPROVAL OF A REGIONAL TREATMENT CENTER FOR CALIFORNIA HAS REMAINED PAINFULLY SLOW. I ASK YOUR SUBCOMMITTEE TO ENCOURAGE IHS TO EXPEDITE THIS PROCESS AND BEGIN TREATING CALIFORNIA INDIANS AS SOON AS POSSIBLE AT THIS TREATMENT CENTER.

I WOULD LIKE TO SUGGEST THAT IHS BUDGET LANGUAGE CONTAIN SPECIFIC PROCEDURES FOR TRIBAL CONSULTATION WITH REGARD TO INTEGRATING MORE INDIAN PROFESSIONALS INTO THE IHS/CAO OFFICE AND CONTRACTED PROGRAMS. THERE IS NEED FOR MORE TRIBAL MANAGEMENT FUNDS FOR THE IHS/CAO IN CALIFORNIA. THESE FUNDS CAN FACILITATE THE 638 PROCESS THROUGH MORE TRIBAL CONSULTATION WITH THE TRIBES.

IN CONCLUSION MR. CHAIRMAN, CALIFORNIA HAS NOT GAINED PARITY WITH OTHER IHS AREA OFFICES, ALONG WITH THE REST OF GENERAL POPULACE WHEN IT COMES TO HEALTH CARE FOR CALIFORNIA INDIANS. MUCH OF THIS IS BECAUSE OF OUR LACK OF ORGANIZATION AND COMMUNICATIONS. WE HAVE BEEN IMPEDED BY HISTORY AND MANY OF OUR TRIBAL MEMBERS CANNOT AFFORD TO TRAVEL TO WASHINGTON,D.C. BUT, MORE OF THE BLAME MIGHT BE RIGHTFULLY DIRECTED RELATIVELY TO STATISTICAL DATA GATHERING, INADEQUATE FUNDING FORMULAS AND INEFFICIENT BUDGET IMPLEMENTATION. PERHAPS A THREE-YEAR STUDY ON IHS ELIGIBILITY AND OTHER INDIAN HEALTH REGULATIONS COULD ALSO BE USED TO EXAMINE SOME OF THE OTHER AREAS OF CONCERN I HAVE MENTIONED. CALIFORNIA IS IN SORE NEED OF AN TRIBAL CONSULTED UPDATED MASTER PLAN FOR CALIFORNIA INDIAN HEALTH CARE.

THANK YOU MR. CHAIRMAN FOR YOUR KIND ATTENTION. I WILL BE HAPPY TO ANSWER QUESTIONS AND PROVIDE ANY BACKGROUND INFORMATION YOU DESIRE.

CALIFORNIA URBAN INDIAN HEALTH COUNCIL, INC.
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(916) 920-0313

TESTIMONY
TO THE

SENATE SELECT COMMITTEE ON
INDIAN AFFAIRS

ON BEHALF OF
CALIFORNIA URBAN INDIAN HEALTH COUNCIL, INC.

Presented By: Sandra Willburn
Urban Program Developer

Mr. Chairman, my name is Sandra Willburn, and on behalf of the (8) urban Indian health programs in California I appreciate the opportunity to appear before you today to discuss the issue of eligibility criteria for Indian Health Services. The 1980 U.S. Census projections estimate that approximately 180,000 American Indians live in metropolitan areas in California. Urban Indian health programs have been providing primary care, outreach, and social services to this population for over 16 years and have established themselves as an integral part of the Indian health services delivery system. California urban Indian health program serves members of tribes located throughout California and other states. A large percentage of this population was moved to urban areas as a result of the relocation program undertaken by the Federal Government during the 1950's. Additionally, a significant number of the over 63,000 clinic visits documented in urban Indian health clinics during 1986-1987 were provided to clients who remained in the urban area for less than (1) year. Thus, our service population can be characterized as having a relatively stable segment as a result of the relocation program and a highly mobile segment who move between urban centers and rural/reservation communities. And, the urban Indian population continues to maintain strong ties with their respective reservations and families.

Eligibility

Urban Indian health programs support the following position on eligibility criteria for Indian health services:

1.) A (3) year moritorium on implementation of the final eligibility rule published in the Federal Register on September 16, 1987 and continued use of former eligibility criteria.

2.) Completion of an impact study regarding eligibility criteria that includes tribes and urban Indian health program input in study design, implementation and the final analysis. Further, this study should be conducted on an area by area basis throughout Indian Health Service. California urban Indian health programs support this position based on the following 2 major considerations of the final eligibility rule published on September 16, 1987.

(1) "Health Service Delivery Areas" (HSDA'S) - The final rule uses residence in a designated "Health Services Delivery Area" as a necessary criteria for eligibility for both contract and direct services, with the Secretary given final authority to determine HSDA boundaries. Within California, Indian people have been advised that these HSDA'S will be used as the primary health planning and administrative entity for Indian Health Services. Historical circumstances have resulted in (10) counties containing large metropolitan areas and (9) rural counties being excluded from official designation as HSDA'S within the State. Therefore, Indian health programs serving populations from both the urban and rural areas in these counties are excluded from IHS planning activities, and in the cases of the rural Counties, all IHS services.

(2) Enrollment in a Federally Recognized Tribe: Urban Indian health program clients include members of tribes who have for various reasons closed their tribal rolls; are members of non-federally recognized tribes; or, have not completed the tribal enrollment process. There is concern that these individuals would be ineligible for services as they migrate between urban and rural/reservation communities. This would have the effect of disrupting the continuity of care between urban and rural Indian health programs and exacerbating already poor health conditions.

The Congressional and Public Affairs Office-Office of Technology Assessment of Indian Health Care study printed in 1986 cites the health status of Indians living in urban areas as "mirroring" that of Indians living in rural/reservation areas. Chart reviews conducted in California urban Indian health clinics during 1987 and 1988 substantiate this finding. For example, the rate of Diabetes Mellitis in our client population is at least twice that of the general population. This type of health problem requires consistent, sensitive care to prevent costly complications such as blindness, amputations, and kidney transplants. Another example is the finding that the majority of Indian women using urban clinics for prenatal services are entering the health care system in their second and third trimesters of pregnancy. These women are also experiencing rates of pregnancy and delivery complications greater than rates for the general population. The poor health status for Indians in these two settings in part reflects the movement of Indians between the urban and rural communities and the persistence of poor health in Indians irrespective of residence.

In conclusion, implementation of the final eligibility rule published in the September, 1987 Federal Register would serve to exacerbate these conditions by excluding members of Indian communities disrupting the continuity of services between urban and rural Indian health services providers. Therefore, California urban Indian health programs support a moritorium on the final eligibility rule and the completion of a (3) year impact study on any changes to the former IHS eligibility criteria.

CALIFORNIA RURAL INDIAN HEALTH BOARD, INC.
2020 Hurley Way, Suite 155, Sacramento, CA 95825, (916) 929-9761

TESTIMONY OF CALIFORNIA RURAL INDIAN HEALTH BOARD
TO SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

My name is Dennis Hendricks. I am Chairman of the California Rural Indian Health Board and a member of the Tuolumne Rancheria Bank of Miwok Indians.

The California Rural Indian Health Board or CRIHB as it is called was founded in 1969 by a consortium of Tribes interested in the re-establishment of federal health services in California through a network of tribally governed Indian health organizations serving the rural Indian population of the State.

Federal health care funding to California Indians had been cut off by HCR 106, a Congressional Resolution enacted in 1954, during the termination period, to eliminate federal health and welfare services to California Indians. It was a first step in a plan the Government intended to implement for Indians throughout the United States. Its disastrous consequences in our state helped save the rest of Indian country from suffering the same fate. California was picked first because a few years prior the status of many of our Indian people had already been terminated and because so many Indians in California were not formally affiliated with tribes recognized by the United States and thus at a disadvantage to organized and resist this policy.

The reasons for the unique status of California Indians is buried in history, accident and previous policy. To begin with the many treaties entered into between California Indian Tribes and the United States in the 1840's were never ratified by Congress. Those treaties would have set aside almost one quarter of the state as reservation trust lands. Unfortunately the lust for gold overruled the need to adequately provide for California's original inhabitants so that most of our Tribes, the Maidu, the Miwok, the Wintun, the Shasta, the Pomo and many others, have

never been recognized, but continue to exist as Indian communities still seeking recognition. Later a patch work of very small reservations for what were termed "homeless and landless Indians" was established, but this only resulted in the recognition of less than half of our people as members of federally recognized tribes. Later still in the 1950's on through to the late 60's implementation of the federal policy of termination resulted in the loss of tribal status to almost a quarter of these rancherias recognized a few years earlier. Today in California there are nineteen organized groups of Indian people native to the state who are seeking federal recognition through the Bureau of Indian Affairs recognition process. This process, however, as it is currently established is cumbersome and virtually unworkable. At best it is very slow and very expensive.

In 1970, as a result of the efforts of the Tribes which founded CRIHB, the federal government began again to provide health care dollars to California Indians by funding seven pilot health projects with a total of $70,000. This money was utilized to serve the entire rural Indian population in California- both affiliated and unaffiliated- as long as they met the standards for eligibility in 42 CFR 36:12, that is they were Indians living in established IHS service areas who belonged to the Indian community to be served. For these last 18 years CRIHB has continued to advocate for one standard of eligibility for California Indian people- and Congress and the IHS have listened.

The success of our effort to return federal health care services to California was capped by a direct line item appropriation to CRIHB in the Federal Appropriations Act of 1973 identifying funds for <u>all</u> eligible Indians residing in a 35 county catchment area within the State of California. This line item was repeated in the 1974 Appropriation Act. And in the attached letter from Everett Rhoades dated May 7, 1986, IHS agreed that it was the intent of Congress to make eligible all the Indians CRIHB and

its member programs in California have been serving, irrespective of their status, based on need. That need still exists. Dr. Rhoades' letter accurately reflects the history of eligibility in this State and it would be inconsistent with that history and the unique status of Indians in California to change all that now by cutting off the majority of Indians in this State- those that are not affiliated with federally recognized tribes.

To that end we have supported Section 709 of SB 129, which sets out each category of California Indian to which the government has historically provided services and mandates that they continue to be served. It should be noted that without legislative intervention the final rule on IHS eligibility published on September 16, 1987 will effectively terminated health care services for most Indians of California, including the landless Indians of California on the California Claims Roll, those with allotments on the public domain and those who are descendants of Indians living in this State in 1852, who still remain residents of their original ancestral lands.

Current estimates based on Bureau of Indian Affairs labor statistics and U.S. Census count projections from the Indian Health Service suggest that as many as 50,000 Indians of California would lose their eligibility under the currently pending final rule. Obviously the loss of service area population on this scale would result in the dismantling of the current health care delivery system in California, which is composed exclusively of health organizations governed by Indians eligible for services. Even more importantly would be the impact on the individual Indians in isolated rural areas who would lose access to any health care services. The Tribal contractors who provide all IHS funded health care services in California are acutely aware though our patient registration system of the large numbers of Indian people with low paying and seasonal employment who do not qualify for medical coverage and who have no private insurance.

We are also acutely aware of the situation in a large number of small communities and even entire counties where no physician is accepting new medical patients. This is particularly a problem for poor women seeking prenatal and obstetric services, particularly in light of the increasing difficulty of obtaining malpractice insurance coverage for these services. Lastly we are aware of the important and positive impacts of the health promotion, outreach and transportation services that are only provided through IHS funded programs. It would be ironical to eliminate those landless Indian people with the fewest alternative resources for whose benefit Indian health service funding was returned to the State 18 years ago from eligibility for the most basic benefit. We were glad to read of Senator Melcher's introduction of S. 2382 which would further delay the implementation of the pending IHS final rule. Although the delay and research approach proposed in the bill means that a future discussion would occur within the framework of the pending rule, nevertheless CRIHB supports S. 2382 in the hopes that subsequent research will highlight the unequal and distructive impact the pending rule will have on California.

The pending final rule on IHS eligibility establishes a single standard for eligibility for both contract and direct care services. CRIHB supports this concept because we believe it is inequitable and discriminatory to provide different levels of services for similarly situated Indians based on whether they have "close social and economic ties" with federally recognized Tribes in their service areas. We note that establishing a unified residency requirement for both contract and direct care services will increase the demand for contract health services. This outcome should be planned for in the Congressional budget process.

In closing I would like to again stress that any new eligibility standard must provide for the continuation of services to all California Indians. Thank you for the opportunity to present our views to your committee.

TOIYABE INDIAN HEALTH PROJECT

PAIUTE PROFESSIONAL CENTER
CORNER OF TUSU LANE AND WEST LINE STREET
P. O. BOX 1298, BISHOP, CALIFORNIA 93514

UTU UTU GWAITU PAIUTE TRIBE
BENTON, CA

BIG PINE BAND OF PAIUTE-SHOSHONE INDIANS
BIG PINE, CA

BISHOP PAIUTE RESERVATION
BISHOP, CA

BRIDGEPORT INDIAN RESERVATION
BRIDGEPORT, CA

ANTELOPE VALLEY IND. COMMUNITY
COLEVILLE, CA

TIMBISHA SHOSHONE TRIBE
DEATH VALLEY, CA

FT. INDEPENDENCE IND. RESERVATION
INDEPENDENCE, CA

LONE PINE BAND OF THE OWENS VALLEY PAIUTE/SHOSHONE INDIANS
LONE PINE, CA

MONO LAKE INDIAN COMMUNITY
LEE VINING, CA

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LONE PINE, CA 93545
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CAMP ANTELOPE CLINIC
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June 22, 1988

Ms. Pat Zell, Chief Counsel
Senate Select Committee on Indian Affairs
Hart Senate Office Building, #838
Washington, D.C. 20510

SUBJECT: Oversight Indian Eligibility Field Hearings - Toiyabe Indian Health Project Testimony

- Utu Utu Gwaitu Paiute Tribe
- Big Pine Band of Paiute-Shoshone Indians
- Bishop Paiute Reservation
- Bridgeport Indian Reservation
- Antelope Valley Indian Community
- Timbisha Shoshone Tribe
- Ft. Independence Indian Reservation
- Lone Pine Band of Paiute-Shoshone Indians
- Mono Lake Indian Community

ELIGIBILITY REQUIREMENTS FOR INDIAN HEALTH SERVICE

The Indian Health Service (IHS) is proposing to terminate thousands of California Indians under new eligibility rules which are due to take full effect in March 1989.

We vehemently oppose these eligibility requirements and ask:

1. That Congress rescind the IHS eligibility regulations and maintain the existing regulations for California.

2. That Congress direct IHS to conduct a study on expected results of the abandonment of California Indians from needed health services before any future considerations be made for such eligibility regulations.

Sincerely,

Neddeen Naylor

Neddeen Naylor, Chairperson
Toiyabe Board of Directors
Chairperson, Lone Pine Reservation

TESTIMONY OF
UTU UTU GWAITU PAIUTE TRIBE
BENTON, CALIFORNIA
TOIYABE INDIAN HEALTH PROJECT
JUNE 30, 1988

BEFORE UNITED STATES SENATOR DANIEL INOUYE
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
SACRAMENTO, CALIFORNIA

Dear Honorable Chairperson Inouye:

INDIAN HEALTH SERVICE

TORTS Claims Coverage for Malpractice Insurance: In-spite-of Congress' clear language in the 1988 Appropriations Bill that tribal health program's malpractice should be covered by the federal TORTS Claim Act, the U.S. Office of Justice and the Indian Health Service have interpreted the language not to include insurance tail coverage nor cover non-Indians who may receive health services at a tribal health department under a tribal contract.

We ask that the U.S. Senate and Congress clarify that TORTS claim language does provide tail coverage and any services that may be provided to non-Indians.

OPPOSITION TO IHS AREA OFFICES USING HOSPITAL & CLINIC FUNDS TO EXPAND THEIR STAFF AT THE EXPENSE OF DIRECT SERVICES

If California is any indication of the rest of the country, millions of dollars that should go to direct services is being siphoned off to greatly expand area office staff. In the California Area Office alone, $1,681,000 has been siphoned off to create a large bureaucracy.

Since all of the direct health services are contracted to tribes in California, a large bureaucracy is even more questionable. California has been miserably funded compared to the rest of the country and yet the area office is using $1,681,000 of Hospital & Clinic monies to increase their staff. In the highly publicized Resource Allocation System by the IHS, California only received an increase of about $400,000 in 1987 which is only one quarter of which the area office is using of Hospital & Clinic monies.

California Area Office FY'87 Budget

(Funds meant to go to direct services which the Area Office has siphoned off.)

Upward Mobility (IHS staff only)	9,400
Area Office Staff (they even admit it)	1,487,700
Public Health Nursing	105,000
Health Education	79,000
TOTAL TAKEN FROM THE TRIBES:	1,681,000

Note: The Area Office direct operating budget is $934,000 (attached).

- We ask that prohibitive language be placed in the appropriation language that no Hospital & Clinic money be used for Headquarters or area office staff for administrative positions or technical assistance positions. The only allowable Hospital & Clinic expense for area offices would be for direct "hands on" APC services such as shared services of oral surgeon, ophthalmologist, etc.

LOAN FORGIVENESS FOR PHYSICIANS

The 1988 Appropriations Act provided $2 million to carry out a loan repayment program under which federal, state and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service in the IHS. The IHS Headquarters has set policy that:

1. Physicians must join the Commissioned Corps.

2. Loan forgiveness would only go to hard to fill sites and hard to fill specialties which will be determined by the IHS.

Although we fought hard for these programs, the IHS is now eliminating the PL93-638 tribal contractors from effectively participating in the loan forgiveness program. PL93-638 states that tribal contractors must be treated equally with the IHS and yet IHS policy states physicians will have to join the Commissioned Corps which is controlled by the IHS. Tribal contractors have not been very successful in employing commissioned officers. The IHS will determine where the hardship sites are which have already excluded California. Experience has taught us that IHS will help the IHS at the expense of the tribal contractors.

- We ask that the loan forgiveness program be continued and expanded to $10,000,000 and to be open to civil servants and tribal hires as well as the Commissioned Corps. Hardship sites should be decided by area with consultation with the tribes.

ELIGIBILITY REQUIREMENTS FOR INDIAN HEALTH SERVICE

The Indian Health Service (IHS) is proposing to terminate thousands of California Indians under new eligibility rules which are due to take full effect in March 1989.

We vehemently oppose these eligibility requirements and ask:

1. That Congress rescind the IHS eligibility regulations and maintain the existing regulations for California.

2. That Congress direct the IHS to conduct a study on the expected results of the abandonment of California Indians from needed health services before any future considerations be made for such eligibility regulations.

BUREAU OF INDIAN AFFAIRS

Inconsistency in BIA Funding of Indian Child Welfare Programs: Toiyabe Indian Health Project provides what many experts consider the best Indian Child Welfare program in California, providing court interventions, foster homes and family counseling. The identical program received high scores one year and was funded, while this year the scores were low and it was not funded. The review committee work is not consistent and appears to be partial. Naturally, this does not help in efforts to increase overall funding.

INCREASE FUNDING FOR THE INDIAN CHILD WELFARE ACT (ICW)

These ICW funds have helped Indian children tremendously in the Toiyabe service area of isolated Eastern California over the years. These funds are particularly critical in states that have no BIA social services available, like California and the USET area. The funding has decreased substantially over the past four years.

We ask that:

1. Funding for the Indian Child Welfare Act be increased from $7.6 million to $11 million for 1989.

2. That ICW funds be a line item in the Band analysis to guarantee that the money appropriated will be made available to the tribes.

CALIFORNIA AREA OFFICE
FY 87 BUDGET

db 09/18/87

ACTIVITY	RECURRING	NON-RECURRING	TOTAL
CLINICAL SERVICES			
Hospitals & Clinics			
Tribal Clinics	20,222,400	0	20,222,400
Professional Meetings	72,800	0	72,800
→ Upward Mobility	9,400	0	9,400
Tribal Health Support	352,700	0	352,700
→ Area Office Staff	1,487,700	113,300	1,601,000
Alcohol - Omnibus	614,800	344,000	958,800
TOTAL - Hosp. & Clinic	22,759,800	457,300	23,217,100
Dental	343,000	0	343,000
Mental Health (Tribal)	171,000	60,600	231,600
Alcoholism	3,039,000	33,200	3,072,200
Contract Care	717,000	193,000	910,000
Reimbursements			
Headstart	0	4,000	4,000
Tribal Clinic (LAP)		104,000	104,000
TOTAL CLINICAL SERVICES	27,029,800	852,100	27,881,900
PREVENTIVE HEALTH			
Sanitation	1,003,718	67,700	1,071,418
Sanitation (Tribal)	30,282	0	30,282
Public Hlth Nursing (Tr	105,000	0	105,000
Health Education	79,000	25,000	104,000
Comm. Health Reps.	852,000	76,600	928,600
TOTAL PREVENTIVE HEALTH	2,070,000	169,300	2,239,300
URBAN HEALTH PROJECTS	0	2,410,600	2,410,600
INDIAN HEALTH MANPOWER	0	0	0
TRIBAL MANAGEMENT	0	241,900	241,900
DIRECT OPERATIONS	934,000	77,400	1,011,400
SANITATION FACILITIES			
Regular	0	0	0
Housing	0	600,000	600,000
CDBG Contributions	0	60,244	60,244
HUD Contributions	0	693,500	693,500
Consolid Working Fund	0	20,000	20,000
TOTAL SANITATION FAC	0	1,373,744	1,373,744
TOTAL - A R E A	30,033,800	5,125,044	35,158,844

CENTRAL VALLEY INDIAN HEALTH, INC.

20 NORTH DE WITT, SUITE 4 • CLOVIS, CALIFORNIA 93612
(209) 299-2578

TESTIMONY
June 30, 1988
Sacramento, CA

Senate Select Committee on Indian Affairs
Eligibility Hearings.

I, Beverly Martinez a Mono/Chukchansi California Indian and chairperson, Board of Directors, CENTRAL VALLEY INDIAN HEALTH, INC., Clovis, California recommend that 42 Code of Federal Regulations, Part 36, dated September 16, 1987, pertaining to the Final Rule regarding the final rules governing who may and may not receive health services from the Indian Health Services (IHS) be rescinded and revoked. This request is consistent with the Tribal Resolution signed in May, 88 by 75 tribes at a Tribal Leaders meeting in Nashville, TN. This resolution requested Congressional Intervention to Withdraw the Final Rule. This Final Rule on Eligibility if it should become law on March 15, 1989 will eliminate and terminate Health Care Eligibility for between 50,000 to 70,000 California American Indians. In addition, several thousand more throughout the nation including Alaska will be terminated by the Federal Government.

The reason that the California American Indian population will be eliminated is because they are not Federally Recognized and are presently attempting to obtain their Federal Recognition. What is unique to the state of California is that eighteen (18) Tribal Treaties were never ratified by the U.S. Government because gold was discovered in California. The white men needed to violate the land and separate it from its resources before allowing its First Americans, the American Indians to claim their land. It seems like the only way that California American Indians can get their Federal Recognition is through Class Action Law Suits like the most recent one being the Tellis Hardwick Law Suit that includes the Federal Recognition of the Picayune Rancheria and North Fork Rancheria in the central San Joaquin Valley of California.

We are also urging the United States Senate to take immediate action on Senate Bill 129 (Reauthorization of the Indian Health Care Improvement Act P.L. 94-437). This action would insure that Health Care Services for American Indians and Alaska Natives will not be terminated. It would also insure that specific health care issues are addressed in order to improve the overall level of health care throughout the nation to be more equal with the general U.S. population. Indian people continue to die younger because of diseases and the rate of Indian Infant Mortality is still high.

In addition if everything else fails we urge the immediate full support of the U.S. Senate of Senator John Melcher's Bill 2382 for a three (3)

TESTIMONY
June 30, 1988
Page 2

year moratorium on the Final Eligibility Rule in order to permit an Area-by-Area assessment of the impact that this Final Eligibility Rule will have on Indian people and Alaska Natives. In the first place this is what should have been done before Secretary, Otis Bowen, Health and Human Services, Washington, D.C. implemented legislation to terminate and eliminate Indian people. Which is a blatant violation of the treaties made with Indian people on the agreement to have a Government to Government Relationship; which in this matter means Tribal Consultation which was ignored by the U.S. Government through Secretary, Otis Bowen.

Therefore, we urge the U.S. Congress to rescind and revoke the Final Rule on Health Care Services Eligibility. This action would demonstrate a good faith effort with the American Indian.

Respectfully,

Beverly Martinez

MS. BEVERLY MARTINEZ, CHAIRPERSON
Board of Directors
CENTRAL VALLEY INDIAN HEALTH, INC.

TULE RIVER INDIAN HEALTH ADVISORY BOARD

TULE INDIAN RESERVATION

P.O. BOX 768 PHONE 784-2316

PORTERVILLE, CALIFORNIA 93258

June 29, 1988

Honorable Senate Select Committee
Haut Senate Office, Room 838
Washington, DC 20510

My name is Laura Manuel. I am a member of the Tule River Indian Tribe and also a member of the Tule River Indian Health Advisory Board.

My Board is concerned with the effect that the new eligibility requirements will have on Indians that are not federally recognized and the impact of the loss of health care services to these vulnerable group of people.

When the number of Indians eligible for service are reduced, the funding will probably be decreased also. California has more tribes, more Indians than any other state, yet we receive a very small percentage of dollars for health services.

A vast number of our Indian people are either terminated, descendents of federally recognized tribes but not meeting tribal requirements for enrollment or are seeking federal recognition from the BIA and have been for the past 20 years or so. These are the people that the Indian Health Service eligibility rules will impact. Men, women, children and those in drastic need of medical care who do not have the protection of being a federally recognized Indian have become a target for IHS in getting their health care cut.

The Indian Health Service (IHS) is seeking and has the intent to severely reduce the number of Indian people eligible for Indian Health Service funding.

We need your help in stopping this regulation.

Attached is a resolution adopted by the Tule River Indian Health Board documenting opposition to the eligibility rules 1) Be a member of, or eligible for membership in a federally recognized tribe; and 2) Reside within a designated health service delivery area.

We have too many descendents of our tribes for us to stand by and watch them lose their services because of very stringent rules. Rules that Indian Tribes should be making as to who is eligible and not IHS.

Thank you for the opportunity to speak on this very important issue.

Laura Manuel

Laura Manuel, Member
Tule River Indian Health Advisory Board

TULE RIVER INDIAN HEALTH ADVISORY BOARD

TULE INDIAN RESERVATION

P.O. BOX 768 PHONE 784-2316

PORTERVILLE, CALIFORNIA 93258

RESOLUTION

WHEREAS, the Tule River Indian Health Center, Inc., is a tribal sanctioned health organization, located on the Tule River Indian Reservation, governed to delivery of health care services to the Indian community residing within Tulare County, and

WHEREAS, the Tule River Indian Health Center, Inc., is also a State Corporation filed June 06, 1973, in the State of California, and

WHEREAS, the Tule River Indian Health Center, Inc., is governed by a seven (7) member Board of Directors hereafter referred to as the Tule River Indian Health Advisory Board, and

WHEREAS, a review has been conducted of the new IHS eligibility for health services, and

WHEREAS, the DHHS did not provide for a long range impact of the new eligibility rule to those California Indian families and individuals who will become ineligible for health care services, and

WHEREAS, the Tule River Tribe strongly oppose the arbitary decisions that resulted in the DHHS new eligibility rules; and

THEREFORE BE IT RESOLVED:

the Tule River Indian Health Center and members of Tule River tribe recommend the U.S. Congress direct the DHHS to rescind the new eligibility rule and proceed with the existing eligibility regulations .

CERTIFICATION

I, the Undersigned, Certify:

That the above Resolution was passed at a meeting of the Tule River Indian Health Advisory Board held pursuant to due notice on February 02, 1988, at which a quorum was present by a vote of 5 Ayes, 0 Nos, to 0 Abstentions.

2/10/88
Date

Darrell Vera, Chairperson

UNITED INDIAN HEALTH SERVICES, INC.
TSURAI HEALTH CENTER
P.O. Drawer O, Trinidad, California 95570 (707) 677-3693

June 24, 1988

Honorable Daniel K. Inouye, Chairman
Senate Select Committee on Indian Affairs
United States Senate
Washington, D.C. 20510-6450

Dear Chairman Inouye:

Thank you for allowing California Indians the opportunity to express their concerns regarding the proposed Indian Health Services' rules which would limit health services to members of federally-recognized Indian tribes who reside within a Health Service Delivery Area. As you are aware, these proposed rules were published as a Final Rule on Wednesday, September 16, 1987, despite widespread opposition to the proposed rules. The subsequent outcry of Indian opposition to the proposed rules has been nearly unanimous. Speaking on behalf on United Indian Health Services, Inc. (UIHS), we would like to officially express our opposition to the Indian Health Services eligibility rules.

United Indian Health Services, Inc., is a private, non-profit, tribally operated primary health care clinic which provides services to the American Indians of Humboldt and Del Norte Counties. Our service area of Humboldt and Del Norte Counties, located in the extreme northwest corner of the State of California, is unique in that it is the aboriginal homeland of more Indian tribes than any other comparable land area in the United States. The aboriginal Indian tribes of Humboldt and Del Norte Counties include the Yurok, Karuk, Hupa, Tolowa, Wiyot, Chilula, Mattole, Whilkut, Sinkyone, Lassik, and Wylacki Tribes (see attached map entitled "Key To Tribal Areas," Handbook of North American Indians, Vol. 8, "California" (Smithsonian Institution, Washington, 1978).

United Indian Health Service Testimony

Page 2, Continued

In addition to United Indian Health two other Indian Tribal Health clinics operate within Humboldt county. The Hoopa Health Association delivers health care services to members of the Hoopa Tribe of the Hoopa Valley Indian Reservation and the Karuk Tribe of California operates a health project to serve Karuk Tribal members residing within their contract health services delivery area of northeastern Humboldt County and western Siskiyou County.

The service population of UIHS numbers nearly 6,000 Indian people and consists primarily of persons of Indian descent of the aboriginal Indian tribes of Humboldt and Del Norte Counties, but also includes Indian people of California Indian descent, and Indian people of non-California Indian tribal descent. In addition, UIHS provides services to seven Indian reservations within this service area. These seven reservations are Cher-Ae Heights Indian Community of the Trinidad Rancheria, Big Lagoon Rancheria, Coast Indian Community of Yurok Indians of the Resighini Rancheria, Table Bluff Rancheria of Wiyot Indians, Rohnerville Rancheria of Bear River or Mattole Indians, Elk Valley Rancheria, and Blue Lake Rancheria. UIHS is a member of the California Rural Indian Health Board and is a P.L. 93-638 contract clinic.

UIHS is a prime example of Indian self-determination in that it was organized by and for local Indian community members for the express purpose of promoting and improving their health care of the Indian service population of Humboldt and Del Norte Counties. UIHS was founded seventeen years ago by the Indian people of our community in order to explore ways of finding access to much needed primary medical and dental care. It was soon realized that the only way this could be achieved was by the development of a direct service program.

United Indian Health Service Testimony

Page 3, Continued

Through the years UIHS has grown to be responsible, comprehensive medical, dental, nutrition, and community health service program for the local Indian community. UIHS provides over 15,000 medical and 8,000 dental encounters per year. Medical care includes complete family and obstetrical care services. UIHS physicians deliver over 100 infants a year and provide inpatient professional service in the local private hospitals. The UIHS/WIC program supports over 1,000 participants. Our Community Health Representatives make nearly 12,000 home contacts and provide transportation for 6,200 patients UIHS has thus far registered approximately 5,000 patients in 1987 and 1988. UIHS has provided health care at a cost to the Indian Health Service on a per capita basis of only about $375 to make it one of the most cost efficient programs in the state, as well as in the nation. UIHS has virtually no contract care dollars and provides nearly all care as in-house direct care. In summary, UIHS has been practicing Indian Self-Determination before it became law in the form of P.L. 93-638.

In developing this system of delivery of health care to the Indian service population of Humboldt and Del Norte Counties, UIHS has consistently relied upon the eligibility requirements set forth in 42 CFR 36.12 which provide in relevant part that "Services will be made available,..., to persons of Indian descent belonging to the Indian community serviced by the local facilities and program..." The methods utilized by UIHS to determine whether persons meet this definition of eligibility is consistent with the history of federal dealings with the California Indians. It is important to note that the eligibility rules of the IHS which are currently proposed would be inconsistent with the federal history of dealing with California Indians.

United Indian Health Services Testimony

Page 4, Continued

The federal history of dealing with California Indian is quite complex, and is less than honorable. Despite this, it is still currently the best manner-to continue to use to determine eligibility issues involving California Indians. Some of these issues of the federal history of dealing with California Indians were raised by various individuals and Indian organizations who expressed opposition to the proposed IHS eligibility rules. However, the IHS declined to give any weight to these concerns, when it was stated in the Federal Register as follows:

> "A number of commentators were concerned that the rule might have a disproportionate impact on Indians in California and, therefore, special rules should be included for California Indians to take into account special historical factors in that State, such as failure to ratify treaties and past termination policies . . . (however) establishing separate eligibility requirements for California could set a precedent both for local diverse eligibility criteria and for inclusion of non-tribal Indian groups in other states. <u>We have concluded that, absent specific Congressional direction to do so, it would inappropriate for the Department to treat California Indians differently under this rule. . .</u>"
> (emphasis added)
> [Federal Register, Vol. 52, No. 179, Wednesday, September 16, 1987, p. 35047]

However, it is the position of UIHS that the separate eligibility requirements for California Indians would not set a precedent for any other areas because the separate eligibility requirements would be based upon the federal historical treatment of California Indians. The utilization of federal history as a basis for determination of eligibility for health services is not precedent setting, and indeed is the only consistent manner of continuing to deal with the California Indians.

United Indian Health Services Testimony

Page 5, Concluded

Therefore, UIHS would like to take the following positions with regard to current federal action:

1. Oppose the implementation of the IHS regulations which would limit eligibility to "members of federally-recognized Indian tribes";

2. Support for action which would maintain the continued use of the current IHS rules for eligibility for services as set forth at 42 CFR § 3612;

3. Support for action which would establish the entire area of California as a Health Service Delivery Area;

4. Support the enactment of SB 129, the Indian Health Care Improvement Act;

5. Support the inclusion of the California Amendments to SB 129.

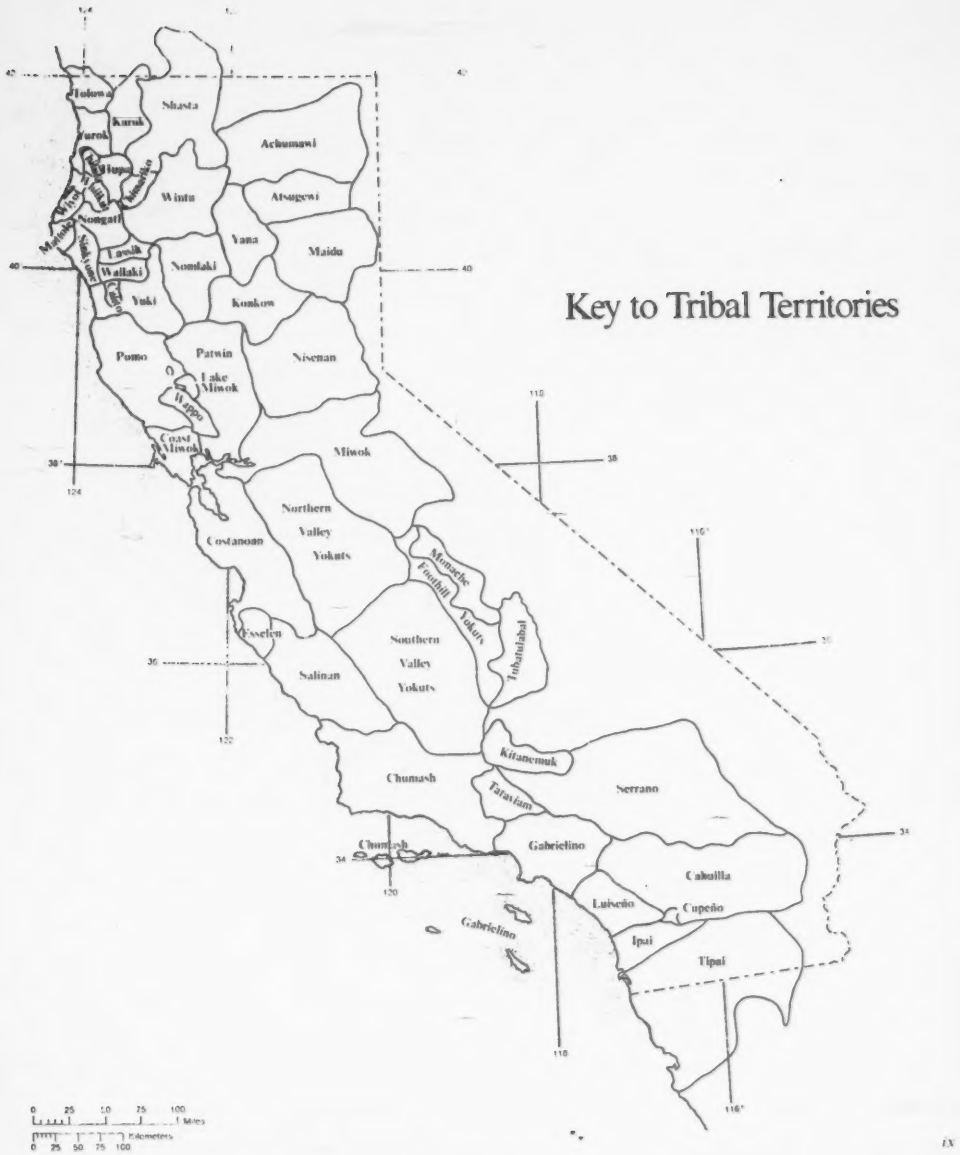
Thank you again for this opportunity to present our concerns and reccomendations to this Committee.

Respectifully Submitted

UIHS Board of Directors

Signed Maria Tripp 6-24-88

Maria Tripp, Vice-Chairperson



FROM: Handbook of North America Indians, Vol. 8 California Smithsonian Institution, Washington 1978.

CHAPA-DE INDIAN HEALTH PROGRAM, INC.
11526 C Avenue, Auburn, CA 95603 (916) 885-3757
6236 Main St., Suite C • P.O. Box 847 El Dorado, CA 95623 (916) 622-3766

June 23, 1988

The Honorable Daniel K. Inouye
Chairman
Senate Select Committee on Indian Affairs
SH 838 Hart Senate Office Building
Washington, D.C. 20510

Attention: Patricia Zell
Chief Counsel

Testimony to be Presented
on
June 30, 1988, Sacramento

By: Sandy Hamilton-Hoagland
for Carolyne Foreman
Chapa-De Indian Health Program, Inc.

As the designated Representative of the Chapa-De Indian Health Program Board of Directors, I am responding to the proposed eligibility regulations for health care services provided by Indian Health Service.

There appears to be much confusion and controversy regarding eligibility, thus creating major issues that many Indian people have to face. To be put in a position to have to take sides on the issue of "what Indian person should receive health care" is somewhat bewildering. I am still in awe that regulations stipulating new eligibility requirements for Indian peoples were even proposed, passed, and scheduled to go into effect (without consulting with the peoples for whom these regulations would directly affect).

I suppose the biggest nightmare concerns the fact that the regulations were made by Bureaucrats who don't know what it's like to "be Indian." I am afraid for Indian people; why are we still having to "defend being Indian;" why are we still having to "justify being Indian;" (that I am here today proving our "Indianness" to your committee).

At hand are issues that create dissension amongst our own people. There was a time that all Indian peoples lived and worked together; a period when our ancestors were all Earth's children. Now, however, we are faced with "land-based Indians" versus "no land-base" Indians; federally recognized versus non federally recognized. We, as Indians, are competing against one another for basic health services; services that in years past were available to us all, regardless of status.

What about the "terminated" Indian tribes? Does it mean anything to anyone here? Does anyone understand how a government can one day recognize a tribal entity, but then, through a legislative process, completely terminate or "unrecognize" a whole tribe of Indian peoples? How can you terminate a group of peoples whose ancestors, customs, legends, language, and beliefs have been existent since the beginning of time? How can you tell an Indian that despite the fact his ancestors were here 10,000 years ago, that despite the fact his tribal customs, songs and dances are still practiced and passed on today, that this Indian is not an Indian because his tribe was terminated years ago? How can you really take away an Indian's identity? I ask again, what about these "terminated" Indians? They are still Indian, but because they have no federal recognition or land base, you say they are not Indian. These people will lose

their basic health services because you say they are not Indian.

We have been given a "grace" period - a time in which we are to enroll in the federally recognized tribes. Those who can be enrolled will have long waits, one (1) to two (2) years, because many tribal offices are backlogged with researching ancestral records. **Six months of a grace period doesn't mean much!** For some of our Indian people, enrollment in their tribes depends on whether the tribe is accepting Enrollment Applications. Some tribes may not be open to enrollment, so how will these people have their health needs met? Some tribes have no enrollment procedures at all, and to establish such procedures would require BIA involvement, regulations, determination, and even more bureaucratic blocks. Why all the continued harassment of determining Indian eligibility? Why are we having to "jump through the hoops?"

In our Chapa-De Program service area, which includes the four counties of Placer, El Dorado, Nevada, and Sierra, are approximately 4,000 American Indians. We are gravely concerned over the eligibility requirements proposed, because we estimate only 2,500 Indian peoples will be eligible to receive Direct and Contract Care if the **Final Rule** is implemented. What about the remaining 1,500? Who will be able to serve their health needs? In your efforts to streamline funding, you are excluding people and tribes that are and always have been indigenous to California.

I have heard the new eligibility regulations were brought about because of abuses to the existing system. To me, it is abusive to require continued bureaucratic blocks and obstacles to the Indian peoples, making them prove their Indianness. It is abusive to deny health care services to a group of indigenous people because of your system of federal identity. Speaking in behalf of the Chapa-De Indian Health Program Board of Directors, we wish to go on record that we are opposed to the new eligibility regulations and demand you take a second look at the Indians in California.

Respectfully submitted,

Sandy Hamilton-Hoagland
Board Member
Chapa-De Indian Health Program, Inc.

Tuolumne Rural Indian Health Center
Post Office Box 577
TUOLUMNE, CALIFORNIA 95379
Telephone (209) 928-4277

OVERSIGHT INDIAN ELIGIBILITY FIELD HEARING
SACRAMENTO COUNTY BOARD OF SUPERVISORS CHAMBERS
700 H STREET, ROOM 1450
SACRAMENTO, CALIFORNIA
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
JUNE 30, 1988
TESTIMONY

PRESENTED BY: SONNY HENDRICKS, ADMINISTRATOR
TUOLUMNE INDIAN HEALTH CENTER

Senator Daniel K. Inouye, Chairman

Senate Select Committee on Indian Affairs

I, Sonny Hendricks, as a California Indian appreciate the opportunity to present testimony before you on the Indian Eligibility Issue, which is of great importance to us as Indian people of California because we have lived with and are experiencing the difficulty of receiving adequate health care in our communities.

If this eligibility rule is implemented as proposed, thousands of American Indians in California will be completely excluded from receiving health care services simply because they reside in areas that have not been designated as service delivery areas or because they have not been included on the membership rolls of Federally Recognized Indian Organizations even though they are descendents of members of that particular tribe.

The deletion of the Indian ancestry clause in the eligibility rule which specified "a descendent of the tribe" should not have been deleted because their is a distinct difference in the meaning of a descendent and member as it applies to an Indian

tribe. The difference being "descendent" indicates ancestry and "member" indicates enrollment. Not being enrolled, does not necessary exclude one's ancestry as an Indian person.

The Bureau of Indian Affairs, the agency previously responsible for maintaining enrollment records of Indian people have now given that responsibility to the local tribes to individually maintain their current membership enrollments without realizing that in order to do so the tribe is faced with an astronomical task of developing a membership which in order to be completed would require access to personal records and involve a development process which could take anywhere from months to years to complete. Many tribes lack the capability and resources to proceed with the development and maintenance of their tribal rolls. The BIA presently has no record of the number of Indian children born since the last enrollment taken in 1970.

The Indian Health Service has just recently implemented an Indian patient registration system through the local Indian Health Programs in California which lists the most current population, but even this does not include those that reside outside of a programs service delivary area, if they presently are not utilizing the program's services.

In California there are nine counties that are not included in the Health Service Delivery Area that have significant Indian population as indicated in the 1980 Census. Many of them are descendents from California Tribes and are beginning to seek direct health care services from the Tribal Health Programs.

There are thousands of Indian people that do not have the opportunity to establish membership in a federally recognized tribal organization due to the sovereign right of the tribal groups to establish criteria and conditions such as blood degree,

residency requirements, descendency clauses, etc. which prohibit or restrict their being eligible for membership.

Although Indian groups not currently established as Federally recognized have a formal process through which they may petition for such recognition through the B.I.A.'s Federal acknowledgment program there are presently groups (at least two in my area; the Ione Band of Miwok Indians and the American Indian Council of Mariposa County) that have been petitioning the federal government for many years and to date have still not received any acknowledgment or decision as to their Federal recognition status.

The number of Indian people that would choose not to establish their membership, if eligible, would be minimal, but even then they should not be penalized by being excluded for health care, as indicated under the proposed eligibility rule.

If a tribal member for whatever reason has to move beyond the geographical range of the Indian Health Services they should not automatically be excluded from receiving health care.

At this time my conclusion is that the proposed Eligibility Rule should be withdrawn in its entirety and that Congress without any further delay enact the the pending S. 129 legislation which takes into consideration the present status of the California Tribes and the House Resolution #2290 which specifically includes the language necessary to address the provision of health care services and that the nine counties in California which are presently now excluded, be designated as a part of the IHS Health Service Delivery Area.

SONOMA COUNTY INDIAN HEALTH PROJECT, INC.

ADMINISTRATION
(Mailing Address)
2300 County Center Drive, B-158
P.O. Box 11126
Santa Rosa, CA 95401
(707) 544-4014

BEHAVIORAL HEALTH SERVICES - Room #150
(707) 575-1414

CLINICAL SERVICES/OUTREACH/WIC
located at
2240 Professional Drive
Santa Rosa, CA 95401
(707) 544-4056 Medical
(707) 544-1752 Dental

SENIOR SITE (707) 527-5598

Senator Daniel K. Inouye
Chairman
S-H 722 Hart Senate Office Bldg.
Washington, D.C. 20510
(202) 224- 3934

Dear Honorable Senator Inouye

The Sonoma County Indian Health Project does not support the new rule on eligibility that I.H.S. plans to implement on Sept. 10, 1988. In our service area there are two recognized tribes, Pomo of Dry Creek and Pomos of Stewarts Point. In our service area there are Wappos, Miwoks and other Pomos who do not belong to any Federaly recognized tribe.

Within Sonoma County there are over 4,000 Indian people, at our clinic we have over 3,000 active Patient Registration.

If the eligibility rule is implemented about one-half of these Indian people we now serve would be declared ineligible and would have to use a county system that is already facing fiscal restraints. Instead of bringing the level of Health Care up you will be lowering the health care of the Indian people. This does not make any sense to us.

Some ot the tribes were terminated in the 1950's during then Pres. Eisenhower policy of termination which did not work and will never work. Some tribes across the country who were terminated had their rights restored as being recognized by the Federal Government.

Doing research and talking to the Elders of some of the terminated tribes, they had no say so or vote on the termination since one person who the Federal Government recognized signed a paper for all involved Does this remind you of the 1800 way of doing business with the Indian People? Take what you want and then deny that Indian people ever lived there.

We support the California language of Dr. Rhodes Memo dated May 7, 1986 on the Indian Eligibility in California. Exhibit I

We also support the language SB- 129 EXHIBIT II

Senator as you look back through history of the United States during their times of War they have reconstructed foreign countries whos Governments signed peace treaties where billions and billions of dollars were spent to rebuild those conquered countries such as through the Marshall Plan after World War II. Yet as the United States conquered the Indian People and broke Treaty after Treaty and forced the Indian people on Reservations to live in poverty, and be forgotten and in many cases die to the lack of food, shelter and health care the Indian problems did not end. The Indian people survived and the population grew.

Why can't the United States Government admit that was wrong? Why will this Government reconstruct and provide billions of dollars to foreign governments, yet only provide enough dollars to meet limited health and economic needs to the only people they declared War on and tried to exterminated through conquest? Is the shame so bad they do not want to admit that they have never adequately funded programs for their conquered people in the United States of America?

Now they are saying that an Indian is not an Indian because the Tribe was terminated by a piece of paper. Is this just another way the Federal Government is trying to correct the problem denying that the tribes should never have been terminated?

They say with limited funds this Government can not take care of all the needs. The solution is to increase the funding, not deny

Health Care to the American Indian.

We would like the Federal Government to recognize the 300 plus tribes that were terminated and have them given federal recognition and increase the Indian Health Care Budget and make the Federal Government the primary source of Health, but including contract Health Services, and not Medi-Cal or any county program be primary provider.

A piece of paper signed by a person does not give away your birth rights of being an Indian .

We ask you to bring to the floor of the Senate your bill to stop Indian Health Services from implementation of the new eligibility rule, that would make American Indians, non -Indians in the eyes of the Great White Father but in the eyes of every one else he or she would still be Indian. Haven't we as Indian people suffered enough?.

Sincerely yours

Sonoma County Indian Health Project
[illegible]

EXHIBIT I

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

RECEIVED

Memorandum

MAY 12 3 10 PM '86

CALIFORNIA PROGRAM OFFICE/SACRAMENTO

Date MAY 7 1986

From Director, Indian Health Service

Subject Indian Eligibility in California

To T.J. Harwood
Director, California Program Office
Indian Health Service

ISSUE

For sometime now there has been a great deal of confusion and controversy over the question of which California Indians are eligible for Indian Health Service (IHS) funded services. Much of the controversy appears to be focused on the views of different factions of California Indians to prove that only they are eligible for one or another of the IHS programs. This has proven to be, as I am sure you are well aware, very devisive to the California Indian community and to the California Program Office.

PURPOSE

The purpose of this memorandum is to confirm how the current IHS eligibility requirements apply to California. There is much speculation that new eligibility requirements will be issued. When and if this takes place, the situation in California will have to be reevaluated in light of any new requirements. In the meantime, however, we must continue to abide by current laws and regulations and current laws and regulations do not establish a single eligibility criteria for IHS services or even a single basis for providing services to Indian communities.

DISCUSSION

Your April 11, 1985, letter to the Administrators of the various California Indian health programs basically restates the requirements of the Contract Health Service (CHS) regulations (42 CFR 36 Subpart C) which have been fully applicable to California since they were issued in 1978. Though basically correct, the problem with the April 11 letter is that it leaves the reader with the mistaken impression that the eligibility requirements in the CHS regulations are the only basis for determining which Indians Congress has directed the IHS to provide services.

Your recognition of the problem caused by too narrow a reading of the April 11 letter is demonstrated by your December 27 memorandum in which you express your agreement that what is needed is an approach which will preserve both the integrity of the CHS regulations and maintain our current responsibilities to California Indians.

Page 2 - T.J. Harwood

I concur with your analysis and that of my staff that: (1) the CHS regulations are in full effect in California and have been since they were issued in 1978; (2) Indians can obtain services at IHS expense from providers serving the general public on basis other than the CHS regulations; and (3) the mere use of a contract instrument does not, in and of itself, result in all services flowing from that contract being governed by the CHS regulations.

It has previously been determined by the Office of the General Counsel (OGC) that, notwithstanding the funding of clinical operations in California through various contract mechanisms, the direct provision of care in these clinics are not governed by the on or near regulation, i.e., the CHS regulations at 42 CFR 36 Subpart C. However, though the OGC understanding that health services purchased by IHS from providers servicing the general public follow the CHS regulations for eligibility purposes is generally correct, the regulations are not applicable in all situations. Exceptions exist where the basis for serving the population was other than "on or near". Such a condition exists in a number of places including California. In all places where IHS or IHS contractors provide services through providers servicing the general public, we use the CHS regulations to the extent feasible, e.g., for authorizing, prioritizing and appeals processes, but not necessarily for eligibility purposes. Eligibility, or the funded scope of a particular program, may be determined by specific Congressional action.

Though most funds appropriated by the Congress for Indian health services are for Snyder Act Indians who reside "on or near" a reservation, Congress does from time to time direct the IHS to provide services to communities of Snyder Act Indians who are not "on or near" a reservation. Examples of such Congressional action include the Indian populations at Haskell, Rapid City, selected urban areas, and Maverick County, Texas (members of the Kickapoo Band of Texas only).

Congress took similar action in regards to California when it provided funding for the California Rural Indian Health Board (CRIHB) in the fiscal year 1973 appropriation (Tab A). Similar action was taken in fiscal year 1974 (Tab B). The appropriation was to IHS and not CRIHB (see OGC opinion at Tab C). Therefore, the California Indian population that IHS was given responsibility for consisted of California Indians served by and residing in the CRIHB catchment areas at the time of the specific Congressional directives. The method of providing services, i.e., direct or through providers serving the general population, was not specified and was not limited to those Indians living "on or near" a reservation.

Your recent research of CPO records to determine what California Counties were served by CRIHB in 1973 identified 35 counties (Tab D). At Tab E there is a chart showing: Column-1, the California counties that are in a Contract Health Service Delivery Area (CHSDA); Column-2, counties in an IHS Service Area (SA); and Column-3, counties in a 1973 CRIHB catchment area. All 35 counties are in a CHSDA or an SA and, in most cases, both.

It should be kept in mind that Congress, in dealing with California Indians, has at times established two classes of such Indians. The first of these

are term "Indians of California" and are defined as "all Indians who were residing in the State of California on June 1, 1852, and their descendants now living in said State". The second group is "Indians in California" made up of all Indians that do not meet the "Indians of California" definition. It has been our assumption that CRIHB was established to serve "Indians of California", both tribal and non-tribal. Based on this assumption and notwithstanding the later issuance of the CHS regulations, certain Snyder Act "Indians of California" have been considered eligible for IHS or IHS funded services whether provided directly or by a provider serving the general public.

DECISION

Therefore, based on the 1973 Congressional action providing funds for CRIHB, Indians living in the 35 CRIHB counties do not need to meet the CHS eligibility regulations if they qualify as "Indians of California". All Indians living in CHSDA counties that are not also CRIHB counties may obtain indirect services only if they meet the requirements of the CHS regulations. Indians who do not qualify as "Indians of California" must meet the CHS regulations. All Indians must, of course, meet the basic eligibility requirements of 42 CFR 36.12 which, I should point out, do not require tribal membership.

It is important when services other than direct are provided in California, that the basis for eligibility be clearly determined and recorded, i.e., whether the individual is eligible under the CHS regulations and/or under the 1973/74 Congressional action.

It should again be emphasized that any change in the current eligibility regulations could result in changes in the California eligibility situation. Also, it should be noted that certain proposed provisions contained in the P.L. 94-437 reauthorization bills (sample at Tab F) would replace the current situation with specific legislation defining California Indians and establishing a single CHSDA. All eligible Indians within such a legislatively mandated CHSDA would be required to meet the CHS regulations.

The above decision on eligibility does not apply to eligibility for Title V Urban or Alcoholism programs each of which has a separate legislative eligibility requirement that is broader than the basic IHS eligibility requirements found at 42 CFR 36.12.

Everett R. Rhoades, M.D.
Assistant Surgeon General

Attachments
Tab A - FY 1973 Congressional Action
Tab B - FY 1974 Congressional Action
Tab C - 11/26/76 OGC Opinion
Tab D - CPO: CRIHB Counties in 1973
Tab E - California County Status Chart
Tab F - California Provision

EXHIBIT II

1 (2) by striking out "Indians in such State" and in-
2 serting in lieu thereof "members of federally recognized
3 Indian tribes of Arizona".
4 (b) Section 708 (25 U.S.C. 1678(c)) is amended by strik-
5 ing out subsection (c).
6 ELIGIBILITY OF CALIFORNIA INDIANS
7 SEC. 703. Section 709 (25 U.S.C. 1679) is amended to
8 read as follows:
9 "ELIGIBILITY OF CALIFORNIA INDIANS
10 "SEC. 709. (a)(1) In order to provide the Congress with
11 sufficient data to determine which Indians in the State of
12 California should be eligible for health services provided by
13 the Service, the Secretary shall, by no later than the date
14 that is three years after the date of enactment of this Act,
15 prepare and submit to the Congress a report which sets
16 forth—
17 "(A) a determination by the Secretary of the
18 number of Indians described in subsection (b)(2), and
19 the number of Indians described in subsection (b)(3),
20 who are not members of an Indian tribe recognized by
21 the Federal Government,
22 "(B) the geographic location of such Indians,
23 "(C) the Indian tribes of which such Indians are
24 members,
25 "(D) an assessment of the current health status,
26 and health care needs, of such Indians, and

1 "(E) an assessment of the actual availability and
2 accessibility of alternative resources for the health care
3 of such Indians that such Indians would have to rely
4 on if the Service did not provide for the health care of
5 such Indians.
6 "(2) The report required under paragraph (1) shall be
7 prepared by the Secretary—
8 "(A) in consultation with the Secretary of the In-
9 terior, and
10 "(B) with the assistance of the tribal health pro-
11 grams providing services to the Indians described in
12 paragraph (2) or (3) of subsection (b) who are not
13 members of any Indian tribe recognized by the Federal
14 Government.
15 "(b) Until such time as the Congress by any subsequent
16 amendment to this Act may otherwise provide, the following
17 California Indians shall be eligible for health services pro-
18 vided by the Service:
19 "(1) Any member of a federally recognized Indian
20 tribe.
21 "(2) Any descendant of an Indian who was resid-
22 ing in California on June 1, 1952, but only if such
23 descendant—
24 "(A) is living in California,

1 "(B) is a member of the Indian community
2 served by a local program of the Service, and
3 "(C) is regarded as an Indian by the commu-
4 nity in which such descendant lives.
5 "(3) Any Indian who holds trust interests in
6 public domain, national forest, or Indian reservation al-
7 lotments in California.
8 "(4) Any Indian in California who is listed on the
9 plans for distribution of the assets of California ran-
10 cherias and reservations under the Act of August 18,
11 1958 (72 Stat. 619), and any descendant of such an
12 Indian.
13 "(c) Nothing in this section may be construed as ex-
14 panding the eligibility of California Indians for health serv-
15 ices provided by the Service beyond the scope of eligibility
16 for such health services that applied on May 1, 1986.".
17 CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY
18 AREA
19 SEC. 704. Section 710 (25 U.S.C. 1680) is amended to
20 read as follows:
21 "CALIFORNIA AS A CONTRACT HEALTH SERVICE
22 DELIVERY AREA
23 "SEC. 710. The State of California, excluding the coun-
24 ties of Alameda, Contra Costa, Los Angeles, Marin, Orange,
25 Sacramento, San Francisco, San Mateo, Santa Clara, Kern,
26 Merced, Monterey, Napa, San Benito, San Joaquin, San Luis

1 Obispo, Santa Cruz, Solano, Stanislaus, and Ventura, shall
2 be designated as a contract health service delivery area by
3 the Service for the purpose of providing contract health serv-
4 ices to Indians in such State.".

5 CONTRACT HEALTH FACILITIES

6 SEC. 705. Title VII is amended by adding at the end
7 thereof the following new section:

8 "CONTRACT HEALTH FACILITIES

9 "SEC. 711. The Service shall provide funds for health
10 care programs and facilities operated by the tribes and tribal
11 organizations under contracts with the Service entered into
12 under the Indian Self-Determination Act—

13 "(1) for the maintenance and repair of clinics
14 owned or leased by such tribes or tribal organizations,

15 "(2) for employee training,

16 "(3) for cost-of-living increases for employees, and

17 "(4) for any other expenses relating to the provi-
18 sion of health services,

19 on the same basis as such funds are provided to programs and
20 facilities operated directly by the Service.".

21 NATIONAL HEALTH SERVICE CORPS

22 SEC. 706. Title VII, as amended by section 705 of this
23 Act, is further amended by adding at the end thereof the
24 following new section:

United Pomo Indian Health Services, Inc.
108 WEST CLAY STREET
UKIAH, CALIFORNIA 95482
(707) 462-0537

JUNE 29, 1988

SENATOR INOYUE AND COMMITTEE MEMBERS:

I AM THERESA FELIZ - THE CHAIRPERSON FOR UNITED POMO INDIAN HEALTH SERVICES CLINIC OF UKIAH, CALIFORNIA. I HAVE COME HERE TODAY TO BRING BEFORE THIS SENATE SELECT COMMITTEE OUR PROBLEMS AND THE UNJUSTLY DENIAL OF HEALTH CARE SERVICES AND FINANCIAL ASSISTANCE FOR OUR CLINIC WHO PROVIDES DENTAL CARE TO ALL LOW-INCOME INDIANS IN MENDOCINO COUNTY.

SINCE 1983 - THE UNITED POMO INDIAN HEALTH CLINIC HAS BEEN DENIED ALL FEDERAL FUNDING BY I.H.S. (INDIAN HEALTH SERVICES). THE DIRECTOR OF I.H.S., MR. T.J. HARDWOOD HAS REFUSED TO GIVE US THE INDIAN HEALTH SERVICE CONTRACT FOR THE MANCHERSTER POINT ARENA BAND OF POMO INDIANS - WHO ARE A FEDERALLY RECOGNIZED TRIBE. ALTHOUGH WE HAVE HAD ON FILE THEIR RESOLUTION DATED JUNE 5, 1985 DULY DESIGNATING UNITED POMO INDIAN HEALTH SERVICES TO NEGOTIATE FOR AND TO PROVIDE COMPREHENSIVE HEALTH SERVICES FOR THEM.

NOW AT THE PRESENT TIME - THE STATE RURAL AND COMMUNITY HEALTH DIVISION CHIEF, MR WILLIAM ARVITT HAS DENIED OUR CLINIC THE STATE FUNDS FOR THE FISCAL YR 1988 - 1989 BECAUSE OUR CLINIC DOES NOT RECEIVE FEDERAL FUNDS.

UNITED POMO INDIAN HEALTH SERVICES SHOULD NOT BE PENALIZED FOR A FAILURE OF U.S. GOVERNMENT - WHICH HAS DENIED THE ACCESS TO FEDERAL FUNDS. THE DENIAL WAS BASED ON A CONCEPT OF I.H.S. DESIGNATED SERVICE AREAS THAT WILL SOON BE TESTED IN COURT.

MR. WILLIAM ARVITT - CHIEF OF RURAL AND COMMUNITY HEALTH DIVISION - SAYS STATE FUNDS SHALL BE SUPPLEMENTAL TO THOSE AVAILABLE FROM THE FEDERAL

GOVERNMENT. THIS STATEMENT OF LEGISLATIVE POLICY DOES NOT REQUIRE - EACH RECEPIENT HAVE A ACTIVE INDIAN HEALTH SERVICE CONTRACT.

THIS LEGISLATIVE INTENT WAS MORE GLOBAL IN NATURE AND COULD PERHAPS BE BETTER STATED THAT STATE FUNDS WERE NOT TO SURPLANT FEDERAL FUNDS. THE CHIEF OF RURAL DIVISION IS BEING TOO NARROW ON THIS POINT.

BEING GIVEN THE EXISTENCE OF A TRIBAL RESOLUTION FOR MANCHESTER/POINT ARENA BAND OF POMO INDIANS ESTABLISHING THEIR NON-PARTICIPATION AT THE OTHER CLINIC - CONSOLIDATED HEALTH PROJECT - CONTINUATION OF FUNDING FOR DENTAL SERVICES TO UNITED POMO IN NO WAY DUPLICATES OR REPLACES ANY COMMITTMENTS MADE BY THE FEDERAL GOVERNMENT.

WE ARE THE ONLY DENTAL CLINIC AND OUT-REACH PROGRAM IN MENDOCINO COUNTY THAT SERVES MAJORITY OF THE NON-FEDERALLY RECOGNIZED INDIANS AND THE TERMINATED INDIANS.

I FIRMLY BELIEVE THAT ALL CALIFORNIA INDIANS SHOULD BE ELIGIBLE FOR HEALTH CARE SERVICES - NOT JUST THE FEW THAT RESIDE ON RESERVATIONS OR WORK AT THE HEALTH CLINICS.

I PLEAD AND ASK THAT YOU THE SELECT COMMITTEE DO A THOROUGH INVESTIGATION OF THE BUREAU OF INDIAN AFFAIRS, CALIFORNIA CENTRAL AGENCY, AND THE INDIAN HEALTH SERVICES - ADMINISTRATIVE POLICY - SO THAT ALL THE INDIANS OF CALIFORNIA BE TREATED EQUALLY AND BE GIVEN A FAIR AND JUST HEALTH CARE - WITHOUT THE INTER-BUREAURACY OR TRIBAL POLITICS SUCH AS INDIAH HEALTH SERVICES HAS BEEN DOING.

OUR UNITED POMO INDIAN HEALTH CLINIC OF UKIAH NEEDS YOUR FULL SUPPORT SO THAT THE SO CALLED TERMINATED AND NON-FEDERALLY RECOGNIZED INDIANS WILL NOT GO BY THE WAY SIDE LIKE A STRAY ANIMAL.

THIS IS THE FIRST TIME IN HISTORY THAT I HAVE SEEN THE SENATE SELECT COMMITTEE COME THIS FAR TO SPEAK WITH THE INDIANS ABOUT THEIR PROBLEMS IN CALIFORNIA.

I THANK YOU SENATOR INOYUE AND THE SELECT COMMITTEE MEMBERS FOR YOUR CONSIDERATION IN ALLOWING ME TO SPEAK BEFORE YOU IN BEHALF OF OUR UNITED POMO INDIAN HEALTH CLINIC.

THANK YOU,

Theresa Feliz

THERESA FELIZ,
CHAIRPERSON UNITED POMO INDIAN HEALTH SERVICES

Enclosures attached
Resolution of Manchester/Point Arena
Band of Pomo Indians.

MANCHESTER-POINT ARENA TRIBAL COUNCIL
POINT ARENA, CALIFORNIA 95468

RESOLUTION NO. 01

The Manchester-Point Arena Band of Pomo Indians is a federally recognized Indian Tribe recognized by the United States of America through the Secretary of the Interior as an Indian Tribe possessed with inherent powers of Tribal self-government, and

WHEREAS, The Manchester-Point Arena Tribal Council is the federally recognized governing body for the Manchester-Point Arena Band of Pomo Indians, and

WHEREAS, The Manchester-Point Arena Band of Pomo Indians recognizes its right to address the health needs of its members in the way it chooses to do so under the national policy of Indian Self-Determination codified in P.L. 93-638, and

WHEREAS, The Manchester-Point Arena Band of Pomo Indians does not wish to be affiliated with the Consolidated Tribal Health Project, Inc., and

WHEREAS, Resolution No. 0057 adopted on April 5, 1983, and any other resolutions pertaining to the subject of said Resolution, adopted by any Committee subsequent to the above, be hereby rescinded and declared null and void, and

NOW, THEREFORE, BE IT RESOLVED, That notice is given from this date that we, the Manchester-Point Arena Band of Pomo Indians withdraw our consent for Consolidated Tribal Health Project, Inc. to apply for, negotiate, and contract for any kind of health service for Mendocino County Service area, both direct and contract care on behalf of Manchester-Point Arena Band of Pomo Indians and by this Resolution all affiliation with the Consolidated Tribal Health Project, Inc. be discontinued effective immediately.

C E R T I F I C A T I O N

This is to certify that the foregoing Resolution was duly adopted by a vote of 70 for, 1 against, and -0- abstentions, at a duly called meeting of the Manchester-Point Arena Band of Pomo Indians, at which a quorum was present, on this 27th Day of April 1985.

Chairman _____ Date April 27, 1985

ATTEST: Secretary _____ Date April 27, 1985

MANCHESTER-POINT ARENA BAND OF POMO INDIANS
TRIBAL COUNCIL
P.O. BOX 623
POINT ARENA, CA 95468

RESOLUTION NO. 07

The Manchester-Point Arena Band of Pomo Indians is a federally recognized Indian Tribe recognized by the United States of America through the Secretary of the Interior as an Indian Tribe possessed with inherent powers of Tribal self government, and

WHEREAS, The Manchester-Point Arena Tribal Council is the federally recognized governing body for the Manchester-Point Arena Band of Pomo Indians, hereinafter referred to as the "Tribe", and

WHEREAS, The Tribe recognizes its right to address the health needs of its members in the way it chooses to do so under the national policy of Indian Self-Determination codified in P.L. 93-638, and

WHEREAS, The Tribe has determined that it is in the best interest of its members to apply for health services through the mechanism of a P.L. 93-638 contract, and

WHEREAS, The Tribe understands that this contract should in no way limit the Tribe from seeking P.L. 93-638 contracts for any other purposes,

NOW, THERFORE, BE IT RESOLVED THAT:

1. The Tribe chooses to utilize the facility and the name of United Pomo Indian Health Services, Inc. to apply for, negotiate, and contract with Indian Health Service for a P.L. 93-638 contract for comprehensive health services to tribal members and other eligible non-reservation Indians in our service area, subject only to the conditions set out in this resolution and applicable tribal laws, codes, regulations, and customs.

2. The scope of said P.L. 93-638 contract shall include comprehensive health care services for the Tribe's members, which shall include services described in the Tribal specific health plan and such other health related services for which Federal funding may in the future become available, monitoring, advocacy, technical assistance, and information sharing.

3. During such time as this resolution remains in effect, United Pomo Indian Health Services, Inc. shall comply with all applicable law and current regulations under P.L. 93-638 for notice to the Tribe and for obtaining further approval from the Tribe.

4. United Pomo Indian Health Services, Inc. shall provide to the Tribe copies of all proposals, contracts, other documents, and amendments thereto which UPIHS submits on the Tribe's behalf, as well as all contract required and contract related reports and documents.

5. Copies of documents and correspondence relating to said contract shall be sent, via certified mail, to Manchester-Point Arena Tribal Council, P.O. Box 623, Point Arena, CA 95468.

6. The term of said P.L. 93-638 shall be negotiated as soon as possible.

7. Nothing in this Resolution shall be construed as affecting, modifying, diminishing, or otherwise impairing sovereign immunity from suit enjoyed by an Indian Tribe or authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

TRIBAL RESOLUTION NO. 07
PAGE 3 of

C E R T I F I C A T I O N

The foregoing Resolution was adopted by a vote of 4 for, and 0 against, and 0 abstentions, at a duly called meeting of the Manchester-Point Arena Tribal Council, at which a quorum was present, on this 05 day of June, 1985.

Nelson Pinola
Nelson Pinola, Chairman

June 5 1985
Date

ATTEST: Lewis K James
Lewis K. James, Secretary

June 5, 1985
Date

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF HEALTH SERVICES
714/744 P STREET
SACRAMENTO, CA 95814
(916) 322-2078

File Copy

RECEIVED
MAR 24 1988

March 21, 1988

Ms. Theresa Feliz
Board Chairperson
United Pomo Indian Health Services
P. O. Box 532
Hopland, CA 95449

Dear Ms. Feliz:

This letter is to officially inform you and your Board of Directors that the State Department of Health Services will not be funding United Pomo Indian Health Services, Inc. in fiscal year 1988-89. We have made this decision based on a number of critical factors as follows:

1. California law stipulates that State Indian Health Program funds be supplemental to federal funds in Indian health clinics. As you know, the federal IHS removed its funding from your program 4-5 years ago. The State continued to fund your program during these years in the hope that your program would be able to reestablish federal funding. This has not come to pass and we can no longer assume that you will be able to obtain federal funding.

2. United Pomo's proximity (within a few blocks) to another Indian Health Program, Consolidated Indian Health Program, results in a duplication of services. Both United Pomo and Consolidated provide dental health services. I am aware that there has been allegations of certain individuals or tribal members not being able to access health services at Consolidated. However, in discussions with the federal IHS, it is our understanding that Consolidated is obliged to serve all of the Indians in Mendocino County. To assure the issue is addressed, staff of the State Indian Health Program are in the process of setting up meetings with all the parties involved.

3. As you are aware, the State annually implements a Systems Appraisal tool to determine the level of services provided and to determine the amount of funds allocated to each of our contractors. The amount of funds your program received this year based on the allocation formula was insufficient and we had to supplement this amount by $27,000 to allow you to continue operations. It is my understanding that your performance on this current Systems Appraisal (completed this past February) was below the performance level for the previous year. This means that you would most likely have received even less money for FY 1988-89 then you did in 1987-88. Clearly you would not be able to maintain any type of viable program with such inadequate funding.

For these reasons, it has become apparent that we can no longer fund United Pomo. However, we are hopeful that we can be instrumental in assuring that health services be provided to your clients by other health care resources in the area. As I noted above, we are in the process of coordinating these efforts with IHS and Consolidated. If you have any suggestions on how these activities can be made more productive, I welcome your recommendations. In addition, staff of the State Indian Health Program will do all they can to assure a smooth transition for your program's patients.

Sincerely,

William A. Avritt

William A. Avritt, Chief
Rural & Community Health Division

cc: Neptaly "Taty" Aguilera, Chief
PHCSB

Ernie Nathan
Acting Chief
IHP

Dana Pierce-Hedge

Dianne Parr, Administrator
UPIHS

Northern Valley Indian Health, Inc.

2167 Montgomery Street
Oroville, California 95965

Administration: 534-8440
Dental Office: 534-7463
Medical Clinic: 538-0770

June 22, 1988

Pat Zell, Chief Counsel
Senate Select Committee on
Indian Affairs
Hart Senate Office Building, Room 838
Washington, DC 20510

Dear Ms. Zell:

My name is Harold McEnespy and I represent Northern Valley Indian Health, Inc. in the position as Chairman serving eight counties in the Northern Sacramento Valley.

We have an eighteen member Board of Directors which includes six tribal chair people of Rancherias in the area that we serve. According to statistics we have an Indian population of eight thousand people in NVIH's service area.

The controversial Indian Health Service Eligibility Rule would be detrimental to NVIH service area. We would estimate that 50,000 California Indians would suffer the loss of health services.

We want to go on record as opposing the IHS Eligibility rule as it would be devastating to our Indian people.

We support the "Nashville 88" workshop May 2-6, 1988 where 300 tribal participants from across the country unanimously supported the withdrawal of this rule and requested that Congress intervene by placing a moratorium on the implementation of any changes in IHS eligibility regulations.

We support Senator Melcher's Bill S.2382 which places a legislative moratorium on the IHS final rule on eligibility published September 16, 1987.

We object and oppose the Administrative proposal for a $2.5 million "study" of relocating IHS Headquarters from Rockville to Albuquerque. It is already known that our Indian communities are underserved and to waste $2.5 million on relocating IHS Headquarters is ludicrous.

We request the Senate Select Committee on Indian Affairs to continue to request more dollars toward clinical and preventive health services, health

manpower, urban projects, tribal management, direct operations, facilities construction, etc. that would begin to bring the health standards of our Indian people up to the highest possible level in parity with the rest of the nation who enjoy such benefits.

Thank you.

Sincerely,

Harold McEnespy

Harold McEnespy, Chairman
Northern Valley Indian Health
Board of Directors

kh

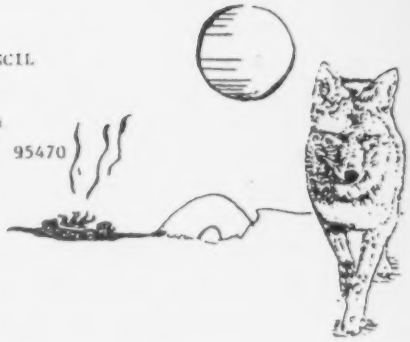
COYOTE VALLEY TRIBAL COUNCIL

P.O. BOX 39
7901 Highway 101 North
REDWOOD VALLEY, CALIFORNIA 95470
(707) 485-8723

CHIEF:
Ira Campbell Sr.

CHAIRPERSON:
Doris Renick

COUNCIL MEMBERS:
Thomas Ramos
Gertrude Feliz
Ruth Alcantra
Harriet Duncan
Hiram O. Campbell
Diane Ortiz



THE PROPOSED RULEMAKING THAT DEPARTMENT PUBLISHED ON SEPTEMBER 10, 1987; REGARDING ELIGIBILITY FOR SERVICES FROM THE INDIAN HEALTH SERVICE (I.H.S.) WOULD REMOVE THOUSANDS, AND POSSIBLY HUNDREDS OF THOUSANDS OF INDIANS RESIDING IN CALIFORNIA AND OTHER STATES FROM THE POPULATION ELIGIBLE FOR I.H.S. SERVICES. (42 C.F.R. PART 36, FINAL RULE, VOL. 22, NO. 179, PP. 35044 FF.)

THIS PROPOSAL WOULD ESTABLISH MEMBERSHIP IN A FEDERALLY-RECOGNIZED TRIBE AS THE BASIS FOR ELIGIBILITY FOR REDERALLY SPONSORED HEALTH CARE, COMPROMISING TRIBAL SOVEREIGNTY. BY IGNORING THE HISTORICAL EVOLUTION OF FEDERAL-INDIAN RELATIONS UNIQUE TO CALIFORNIA, THIS PROPOSAL WOULD LEAD TO THE TERMINATION OF AN ESTIMATED TWO THIRDS OF THE CURRENTLY ELIGIBLE INDIANS IN THE STATE FROM I.H.S.-FINANCED CARE. DR. RHOADES MISLEADS US IN SAYING THIS RULE IS NOT INTENDED TO "JERK THE RUG" OUT FROM UNDER THESE INDIANS.

WE RECOGNIZED, AS THE RECENT OFFICE OF TECHNOLOGY ASSESSMENT STUDY INDICATED, THAT THE CURRENT POLICY REGARDING ELIGIBILITY FOR I.H.S. SERVICES IS IN NEED OF CLARIFICATION. HOWEVER, WE DO NOT EQUATE CLARIFICATION WITH WHOLESALE TERMINATION, AS THE PROPOSED RULE DOES. MORE FUNDAMENTALLY, WE BELIEVE THAT THE JUDGEMENT AS TO WHICH INDIANS SHOULD BE ELIGIBLE FOR I.H.S. CARE IS EXCLUSIVELY A RESPONSIBILITY AND PREROGATIVE OF THE CONGRESS. IN OUR VIEW, IT IS SIMPLY INAPPROPRIATE FOR THE DEPARTMENT TO UNDERTAKE SUCH A FUNDAMENTAL RESTRUCTURING OF FEDERAL-TRIBAL RELATIONS, WHETHER IN CALIFORNIA OR IN ANY OTHER I.H.S. AREA. YET THAT IS PRECISELY WHAT THIS PROPOSED RULE WOULD DO.

THIS IS A RADICAL PROPOSAL. CONGRESS HAS LONG ALLOWED THE TRIBES TO DETERMINE WHO THEIR MEMBERS ARE AND, THEREFORE, WHO IS ELIGIBLE FOR I.H.S. SERVICES

BASED ON MEMBERSHIP IN THAT TRIBE. BY IMPOSING UNIFORM FEDERAL ACKNOWLEDGEMENT REQUIREMENTS, THE PROPOSED RULE WOULD CUT-OFF IHS SERVICE ELIGIBILITY TO MEMBERS OF OVER 20 TRIBES, INCLUDING ONE IN OUR IMMEDIATE AREA. MORE FUNDAMENTALLY, THE PROPOSED RULE WOULD CHANGE THE BASIC TERMS OF THE FEDERAL-TRIBAL RELATIONSHIP. IT HAS LONG BEEN SETTLED THAT SPECIAL INDIAN PROGRAMS ARE BASED ON THE UNIQUE POLITICAL RELATIONSHIP BETWEEN INDIAN TRIBES AND THE FEDERAL GOVERNMENT, MORTON V. MANCARI, 417 U.S. 535 (1974). THE IMPOSITION OF THE PROPOSED REQUIREMENTS WOULD SHIFT THE GROUND OF THE RELATIONSHIP FROM POLITICAL RECOGNITION TO NON-RECOGNITION, HENCE IHS INELIGIBILITY, OF MANY THOUSANDS OF NATIVE CALIFORNIA INDIANS, OUR RELATIONS AND NEIGHBORS, UNTIL THEIR TRIBES ARE RESTORED.

LET US SHARE WITH YOU JUST A FEW OF OUR CONCERNS ABOUT THE IMPACT OF THIS PROPOSED RULE ON CALIFORNIA. BECAUSE THE PROPOSED RULE DOES NOT CONTAIN ANY QUANTITATIVE ANALYSIS OF ITS IMPACT ON VARIOUS AREAS OF THE COUNTRY, WE ARE USING OUR OWN ESTIMATES OF THE IMPACT ON VARIOUS AREAS OF THE COUNTRY; WE ARE USING OUR OWN ESTIMATES OF THE IMPACT, BASED ON DISCUSSIONS WITH CALIFORNIA INDIANS AND ON INFORMATION CONTAINED IN THE OTA REPORT, INDIAN HEALTH CARE.

ACCORDING TO OTA, BASED ON 1980 CENSUS DATA, OVER 216,000 INDIANS LIVE IN CALIFORNIA. OF THESE, THE IHS ESTIMATES THAT ONLY ABOUT 75,300 ARE ELIGIBLE FOR ITS SERVICES THIS YEAR. (THE REMAINDER ARE CONSIDERED "URBAN" INDIANS AND, UNDER CURRENT IHS POLICY, ARE INELIGIBLE FOR DIRECT OR CONTRACT CARE SERVICES). OF THE IHS SERVICE POPULATION, ROUGHLY 22,100 ARE MEMBERS OF CALIFORNIA FEDERALLY-RECOGNIZED TRIBES. AS YOU KNOW, THE REASON THAT THERE ARE MORE THAN 50,000 IHS-ELIGIBLE INDIANS IN CALIFORNIA WHO ARE NOT MEMBERS OF CALIFORNIA FEDERALLY-RECOGNIZED TRIBES IS THAT PAST FEDERAL POLICIES, INCLUDING THE INITIAL REFUSAL TO RATIFY TREATIES, THE CONFISCATION OF TRIBAL LANDS, AND THE UNILATERAL TERMINATION OF TRIBES FROM FEDERAL RECOGNITION, HAVE PLACED THESE INDIVIDUALS IN INVOLUNTARY LEGAL LIMBO.

THE EFFECT OF THE PROPOSED RULE WILL, IN ALL LIKELIHOOD, BE TO TERMINATE THE ELIGIBILITY OF VIRTUALLY ALL OF THE CURRENTLY-ELIGIBLE CALIFORNIA INDIANS WHO ARE NOT MEMBERS OF FEDERALLY-RECOGNIZED TRIBES, INCLUDING MANY WHO ARE WELL KNOWN AS POLITICAL, SOCIAL, AND CULTURAL LEADERS THROUGHOUT CALIFORNIA. THIS WOULD AMOUNT TO ABOUT 50,000 CALIFORNIA INDIANS, OR ROUGHLY TWO THIRDS OF THOSE CURRENTLY ELIGIBLE FOR IHS SERVICES. THE PRIMARY REASON FOR THIS MASSIVE TERMINATION IS THE PROPOSED RULE'S RELIANCE ON THE FEDERAL GOVERNMENTS PAST MISDEEDS. A SIGNIFICANT

NUMBER OF CURRENTLY ELIGIBLE INDIANS WILL NOT BE ABLE TO MEET THE PROPOSED REQUIREMENT THAT THEY BE A MEMBER OF A FEDERALLY-RECOGNIZED TRIBE, IF AT ALL, FOR DECADES, UNLESS CONGRESS ACTS TO EITHER ACCELLERATE THE FEDERAL ACKNOWLEDGEMENT PROCESS, OR RECOGNIZES TRIBES BY SPECIAL STATUTES.

NOT ONLY DOES THE PROPOSED RULE IGNORE THE HISTORICAL EVOLUATION OF FEDERAL-TRIBAL RELATIONS UNIQUE TO CALIFORNIA, BUT IT COMPLETELY FAILS TO ADDRESS THE CONSEQUENCES OF THE MASS TERMINATION IT WOULD WORK. THE RULE MAKES ABSOLUTELY NO PROVISION FOR THOSE INDIANS WHO ARE TO BE TERMINATED, EITHER IN CALIFORNIA OR ELSEWHERE. INSTEAD, IT MERELY ASKS FOR PUBLIC COMMENTS REGARDING THE STEPS THE IHS MIGHT TAKE "TO FACILITATE THE TRANSITION FOR PERSONS WHO MAY NO LONGER BE ELIGIBLE UNDER THE NEW RULES." JUST WHERE DOES THE DEPARTMENT EXPECT 50,000 OR SO CALIFORNIA INDIANS WHO WILL LOSE THEIR ELIGIBILITY FOR BASIC HEALTH SERVICES TO "TRANSITION" TO? THE PROPOSED RULE IS COMPLETELY INSENSITIVE TO THE CHAOS THAT TERMINATION WILL CREATE FOR THE CALIFORNIA TRIBES WHO CONTRACT WITH THE IHS TO RUN THEIR OWN HEALTH PROGRAMS UNDER THE INDIAN SELF-DETERMINATION ACT. THESE TRIBAL CONTRACTORS WILL HAVE TO DISTINGUISH BETWEEN TRIBAL MEMBERS WHO HAVE THE REQUISITE BIC CARD AND THOSE WHO DO NOT, IN EFFECT RELEGATING THE LATTER GROUP TO SECOND-CLASS STATUS. DR. RHOADES CAN NOT ASSURE A "HUMANE" OR "SENSITIVE" TRANSITION FOR THESE PEOPLE. SHASTA COUNTY HAS NOTORIOUS PROBLEMS WITH ITS BUDGET FOR HEALTH CARE DELIVERY. WHERE ARE SHASTA COUNTY INDIANS TO TURN?

WHILE WE ARE PRIMARILY CONCERNED ABOUT THE IMPACT OF THIS PROPOSED RULE ON CALIFORNIA, WE ALSO BELIEVE THT IT IS INAPPROPRIATE FOR THE DEPARTMENT TO UNILATERALLY ALTER LONGSTANDING FEDERAL ELIGIBILITY POLICY VIA INDIAN HEALTH PROGRAMS THROUGHOUT THE COUNTRY. AS THE OTA HAS EXHAUSTIVELY DOCUMENTED, THE HEALTH STATUS OF AMERICAN INDIANS AND ALASKA NATIVES REMAINS WELL BELOW THAT OF U.S. POPULATION AS A WHOLE. TERMINATING THOUSANDS OF INDIAN MEN, WOMEN, AND CHILDREN FROM ELIGIBILITY FOR BASIC HEALTH SERVICES FROM THE ~~IHS~~ -- WITH NO PROVISION FOR ALTERNATIVE SOURCES OF CARE -- CAN ONLY MAKE MATTERS WORSE. WE URGE THAT YOU IMMEDIATELY WITH DRAW THIS BADLY MISGUIDED PROPOSAL.

COYOTE VALLY WAS SUPPORTATIVE OF THE LETTER OF JUNE 25, 1986, TO THE HONORABLE OTIS R. BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES FROM THE URBAN INDIAN HEALTH BOARD INC., OF SAN FRANCISCO AS PREPARED BY AL LOGAN SLAGLE. THE NEWLY PROPOSED RULE ACCORDING TO DR. RHOADES' STATEMENT OF JUNE 21, 1988, WOULD ELMINATE 125,000 FROM SERVICE-ELIGIBILITY, YET HIS STATEMENT ALSO SAYS IT WOULD

ADD 125,000 THIS IS HIS IDEA OF ASSURING UNIFORMITY AND EQUITY.

THE PROPOSED IHS ELIGIBILITY REGULATIONS THREATEN THE TRIBAL TRIBES THAT HAVE LINEAL DECENDANCY AS ENROLLMENT REQUIREMENT THE U.S. GOVERNMENT HAS BEEN IGNORED. WE FIND IT INEQUITABLE THAT SUCH A RULE SHOULD AFFECT CALIFORNIA INDIANS MORATORIUM BE PLACED ON IMPLEMENTING THE IHS PROPOSED ELIGIBILITY REQUIREMENTS, THUS ALLOWING INDIVIDUAL TRIBES TO EXERCISE THEIR TRIBAL SOVEREIGNITY CONCERNING TRIBAL ENROLLMENT AND SERVICE DELIVERY AREA, AND TO ASSURE THE INTEGRITY OF INDIAN HEALTH PROGRAMS IN CALIFORNIA.

SINCERELY,

Doris Renick

DORIS RENICK, CHAIRPERSON
COYOTE VALLEY TRIBAL COUNCIL
COYOTE VALLEY RESERVATION

NEW ELIGIBILITY FOR INDIAN HEALTH SERVICES IS NOTICE OF PROPOSED RULEMAKING, FEDERAL REGISTER, 42 CFR PART 36, SUBPARTS A-C

Submitted by:
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To:
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Date: August 18, 1986

Re: Notice of Proposed Rulemaking, DHHS, PHS, IHS Eligibility, 42 CFR Part 36, A, B, C, Published in the Federal Register Vol. 51, No. 111, Tuesday, June 10, 1986, pp. 21118, et seq.

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The new regulations will discriminate among Indians in a way that will effectively terminate members of the class of Indians.

The new IHS Eligibility Regulations discriminate as between the class of Indians and members of all other ethnic communities by defining part of the class of Indians out of existence based on a criterion--blood quantum—which members of any other ethnic group would never tolerate. Indian tribes and communities, like other minority groups, compose indigenous minorities which have come to include large numbers of mixed-breed and mixed-blood people.

Public health policy, future services to "non-eligible" Indians, and preventive medicine as Indian health issues: a puzzle.

What the promulgation of these regulations proves: Federal-Indian relations, and Indian political and ethnic identity exist, and will survive, as functions of the Federal government's assessment of the extent to which defending the appearance of a national honor in continuing the Federal-Indian Trust Relationship supports the national interest.

26. THE GROTESQUE DISPARITY BETWEEN THE POLICIES ALLOWING MILITARY WASTE IN SPENDING, AND THE CURTAILING OF INDIAN HEALTH SERVICES; AND A MODEST PROPOSAL
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ISSUE: HIS PROPOSAL OF NEW ELIGIBILITY CRITERIA

June 10, 1986 the US Public Health service issued a news release in HHS NEWS, proclaiming:

> These rules are intended to set limits on the eligible service population enabling the IHS to better focus its services for those who qualify for IHS care. These rules also will enable the IHS to allocate resources among beneficiary groups based upon clearly defined local service populations. In addition, substituting more precise eligibility requirements applicable to both direct and contract health services will enhance coordination of patient care in IHS and non-IHS facilities.
>
> The regulations apply to IHS direct health services as well as services purchased from non-IHS hospitals and health care providers under contract.
>
> According to the proposed rules, an eligible person must be: a member of a federally recognized Indian tribe or eligible for membership in a recognized tribe, of one-quarter or more American Indian or Alaska Native ancestry and a resident in a designated health service delivery area. If a person is not a member of a federally recognized Indian tribe or eligible for membership in one, the individual must be of one-half or more Indian or Alaska Native ancestry and reside within a designated health service delivery area.

On June 24, 1986, T. J. Harwood, Director, IHS/California Program Office, noted the publication of the proposed regulations in a Notice of Proposed Rulemaking published in the Federal Register, 42 CFR Part 36, Subparts A, B, C, soliciting written comments either at proposed meetings to be held in California, or subsequently to IHS Headquarters.

THE NEW ELIGIBILITY CRITERIA, 42 CFR PART 36, SUBPARTS A, B, C: THE TEXT

The new eligibility criteria for Indian Health services which the Department of Health and Human Services proposed on June 10, 1986 retain a very slight pretension of acknowledgement of the current policy of Self-Determination in the Federal-Indian relationship. 42 CFR Part 36.12, "Persons to whom health services will be provided," as amended, will read:

(a) Subject to the requirements of this Subpart, the Indian Health Service will provide direct services at its facilities, and contract health services, as medically indicated, and to the extent that funds and resources allocated to the particular health service delivery area permit, to persons of Indian and Alaska Native ancestry who:
(1) Are members of, or eligible for membership in, a federally recognized Indian tribe; and
(2) Are of one quarter (1/4) or more Indian or Alaska Native ancestry as determined by the Department of the Interior or through other reasonable means; or
(3) Reside with a health service delivery area designated under Sec. 36.15 of his part; or
(4) Are not members of, or eligible for membership in, a Federally recognized Indian tribe but are of one half (1/2) or more Indian or Alaska Native ancestry and reside within a health service delivery area designated under Sec. 36.15 of this part.
(b) Subject to the requirements of this Subpart, the Indian Health Service will also provide direct services at its facilities and contract health services, as medically indicated, and to the extent that funds and resources allocated to the particular health service deliver area permit, in the circumstances listed below:
(1) Persons who meet the eligibility criteria in paragraph (a) of this section except for the residency requirement, who formerly resided within a health service delivery area designated under Sec. 36.15 of this part, and who return to their home community within that area and receive services there (and minor children of such persons if the children meet the eligibility criteria in paragraph (a) of this section except for the residency requirement).
(2) A non-Indian woman pregnant with an eligible Indian's child but only during the period of her pregnancy through post-partum (generally about 6 weeks after dlivery). In cases where the woman is not married to the eligible Indian under applicable state or tribal law, paternity must be acknowledged in writing by the Indian or determined by order of a court of competent jurisdiction.
(3) Non-Indian members of an eligible Indian's household if the medical officer in charge determines that the health services are necessary to control acute infectious disease or a public health hazard.
(4) Upon request and with the written approval of the Service Unit Director for good cause, to an otherwise eligible person for up to 90 days after the person ceases to reside in a health service delivery area.
(c) Contract health-services will not be authorized when and to the extent that Indian health Service facilities are available and accessible to provide the needed care. When funds are insufficient to provide the volume of contract health services needed by the service population, the Indian Health Service shall determine service priorities on the basis of medical need.

Contract health services will not be authorized when, and to the extent that, alternate resources for payment:

(1) Are available and accessible to the beneficiary, or

(2) Would be available and accessible if the beneficiary were to apply for them, or

(3) Would be available and accessible under state or local law or regulation in the absence of the individual's eligibility for contract health services from the Indian Health Service.

(d) The Indian Health Service may provide direct services at its facilities on a fee-for-service basis to persons who are not beneficiaries under paragraphs (a) and (b) of this section in any of the following circumstances:

(1) In emergencies under section 322 (b) of the Public Health Service Act, 42 U.S.C. 249(b), and 42 CFR 32.111.

(2) To Public Health Service and other Federal beneficiaries under Economy Act (31 U.S.C. 1535) arrangements to the extent that providing services does not interfere with or restrict the provision of services to Indian and Alaska Native beneficiaries;

(3) To non-beneficiaries residing within the health service delivery area when approved by the tribe or tribes located on the reservation but only to the extent that providing services does not interfere with or restrict the provision of services to Indian and Alaska Native beneficiaries.

Health Service Delivery Areas shall be redefined under Sec. 36.15:

(a) The Indian Health Service will designate and publish as a notice in the Federal Register specific geographic areas including Federal Indian reservations and areas surrounding those reservations as health service delivery areas.

(b) The Indian health Service may, after consultation with the Indian tribes affected, redesignate the boundaries of any health service delivery area by publication of a notice in the General Register. Any redesignation of a health service delivery area will include the reservation, and those areas close to the reservation boundaries which can reasonably be considered part of the reservation area based on consideration of the following factors:

(1) The number of persons residing in the off-reservation area who would be eligible under Sec. 36.12(a) (1), (2), and (3).

(2) Whether the governing body of the tribe(s) on the reservation treats those persons as an integral part of the reservation tribal community;

(3) The number of persons residing in the off-reservation area who have traditionally received health services from the Indian Health Service and whose eligibility for services would be affected;

(4) The geographic proximity of the off-reservation area to the reservation.

(5) Whether the Indians residing in the off-reservation area can be expected to need and to use health services provided by the Indian Health Service given the alternate resources (health facilities and payment sources) available and accessible to them.

(c) Notwithstanding paragraphs (a) and (b) of this section above, the Indian Health Service may designate States, subdivisions of States such as counties or towns, or other identifiable geographic areas such as census divisions, as health service delivery areas where reservations are nonexistent, or so small and scattered and the Indian population so widely dispersed that it is inappropriate to use reservations as the basis for defining the health service delivery area.

(d) Any Indian tribe located within a health service delivery area may, by

resolution of the tribal governing body, request a change in area boundaries. Such a request should be supported by documentation related to the factors for consideration set out in paragraph (a) of this section. The Indian tribe will be afforded the opportunity to express its views orally and in writing first to the appropriate IHS Area or Program Director, and then to the IHS Director or the Director's designee prior to any IHS decision. The decision of the IHS Director shall constitute final agency action on the tribe's request. Changes in the boundaries of health service delivery areas will be published in the Federal Register.

Enforcement will rely on Sec. 36.13 Beneficiary identification cards, e.g.:

The Indian Health Service, as part of its ongoing registration system, will maintain a list of the names and addresses of persons who are eligible for services under Sec. 36.12(a), and will issue beneficiary identification cards as evidence of beneficiary status. Persons requesting beneficiary identification cards must submit evidence of tribal membership, Indian blood quantum, and residence within a health service delivery area. Questions regarding tribal membership of Indian blood quantum will be resolved through consultation with the appropriate tribe and officials of the Bureau of Indian Affairs.

The criteria, obviously, are primarily racial ones whose probable effects on the future delivery of Indian health services in California should be obvious. These new eligibility criteria, coupled with other new policies affecting services to Indians, will have the almost unavoidable effect of blocking the corridors of service to Indian people in California precisely at a time when alternative resources of California county service agencies are being curtailed.

"INDIAN" CIVIL RIGHTS ISSUES: HAVE THEY BEEN REDEFINED BY NEW ELIGIBILITY CRITERIA?

In a Memorandum from Dr. Everett Rhoades, Director of IHS, to IHS Executive Staff, Area/Program Directors and Headquarter Division Directors dated May 2, 1986, he transmitted the "Three Party Agreement" between the PHS, Health Care Financing Administration and the Office for Civil Rights. Signed March 31, 1986, it is "a revision of a 1974 agreement which spelled out the Department's policy as to the rights of the Indian people to equal access to health services from Federal, State and local programs on the same basis as other citizens." The new agreement "updates" the policy and "provides new procedures for reporting wide distribution and studied carefully in order that it may be promptly implemented throughout the Indian Health Service." The Statement does not address the issue of identification of Indians or definition of service areas as the new Eligibility Criteria do. Having failed to address that basic issue, the Statement threatens to leave a very significant gap in its coverage. If the intent of IHS is to cut off service population, while carefully leaving one to conclude that the service class must be defined in the Memorandum of Agreement according to blood quantum, as is the new IHS Eligibility Regulations, so as to be able to deny responsibility for persons defined otherwise as Indian who henceforth will be ineligible for health services. Having defined the standard of fairness, averting responsibility becomes easy. The Policy announced under Section II follows:

> American Indians and Alaska Natives are entitled under the Fifth and Fourteenth Amendments to the Constitution of the United States, and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1 et seq., to equal access to State, local, and Federal programs to which other citizens are entitled.
>
> The United States Indian Health Services (IHS) is a residual rather than a primary health service resource. This is reflected in the Code of Federal Regulations at 42 CFR 36.12 (e) and 42 CFR 36.23 (f). The IHS program is a discretionary program that deals with gaps that exist in the availability and accessibility of the health service systems serving those Indian communities for whom funds have been provided to IHS by the Congress. The IHS program is not an entitlement program or an insurance program and, therefore, cannot be considered a third party for either reimbursement or eligibility purposes by any State, local or other Federally assisted program absent a specific Federal law to the contrary.
>
> Pursuant to Title XIX of the Social Security Act, 42 USC 1396 et seq.; the Snyder Act, 25 USC 13; and Title VI of the Civil Rights Act of 1964, 42 USC 2000d-1 et seq., Department policy related to health care for American Indians and Alaska Natives is:
>
> (1) Eligible American Indians or Alaska Natives, whether or not enrolled members of a State or federally recognized reservation, colony, native village, or rancheria, or similar grouping, are entitled to all services or payment for services for which other eligible persons are entitled.
>
> (2) The eligibility of an American Indian or Alaska Native under any State's medical assistance program, whether providing direct services or meeting the cost of the services provided therein, is not affected by the use of or eligibility for services provided by IHS facilities or contractors.
>
> (3) The eligibility of an American Indian or Alaska Native for medical services administered by a recipient of Federal financial assistance, in whole or in part, or any third party payment for medical services, whether or not such thrid party payments are federally assisted, is not affected by the use

of or eligibility for services provided by IHS facilities and contractors.
(4) Services available from or eligibility for contract health services from IHS cannot be considered as an alternative resource which would preclude eligibility of American Indians or Alaska Natives for services or payment for services available to the general population.
(5) American Indians and Alaska Natives shall have the same rights to receipt of medical services under a State plan approved under any of the public assistance Titles of the Social Security Act, including Title XIX, Medicaid, as do all other eligible individuals.
(6) Under the provision of its approved medical assistance plan the state agency is responsible for meeting the cost of the services provided therein for all individuals, regardless of race or national origin, who apply and are found eligible.
(7) No recipient of Federal financial assistance may, therefore, refuse to certify as eligible or fail to provide health services to American Indians or Alaska Natives on the ground that IHS services are available. Such refusals exclude persons from the provision of such services solely on grounds of race or national origin, in violation of Title VI of the Civil Rights Act of 1964.
(8) In the case of a person who qualifies as an American Indian or Alaska Native, and who is eligible for the services of the Indian Health Service/Public Health Service or the Department of Health and Human Services, IHS may assume residual responsibility for medical care and services that are encompassed by the appropriate State plan. This does not relieve the States from the obligation to make those services which are generally available to other eligible members of their overall populations also available to American Indians and Alaska Natives.

The idea is very clear. The Federal-Indian relationship and moral obligation in the area of Health Services is defined as existing only on a "last resort" basis. The "service population" of Indians is to be defined on a "last resort" basis, the candidate for membership in the class bearing the ultimate burden and cost of proof for inclusion in the class. Having taken the precaution of redefining the class of "eligible Indians" for the purposes of IHS services, PHS/DHHS are entirely confident that they can dispell any suggestion of inequity in the new regime.

CONTEMPORARY INDIAN HEALTH CONDITIONS AND THE JUSTIFICATION OF CUTTING INDIAN HEALTH SERVICES

Frederick S. Stinson and Margaret C. Planz's Comparative Health Service Indicators for the IHS and U.S. Populations, the Final Report of the Indian Health Service Data Comparison Project, Washington D.C., by CSR Incorporated, March, 1986, p. 3, quoted Hearings, Part 8, subcommittee on the Department of the Interior and Related Agencies, House Committee on Appropriations, May 1984, p. 80 for the following:

> The matter of parity in health service provision for IHS clients was discussed at length in May, 1984, before the Subcommittee . . . . The Subcommittee learned that, if current and projected per capita health service expenditures by the IHS are compared to those for the population as a whole, the long-standing disparity between the groups appears to be increasing. In the mid-1970s the per capita expenditure by the IHS rose to 83 percent of that for the U. S. population as a whole ($514 vs. $616). Soon after, however, expenditures for Indian people declined per person, while U.S. expenditures continued to climb. By 1984 the difference had grown to almost 50%—$778 versus $1,452. In estimating future needs for clinical services to the Indian people, the disparity in expenditures is likely to grow. U.S. expenditures per person are projected by HCFA to grow to more than $3,300 per person in 1994. Current trends would appear to hold IHS appropriations for Indian people to a little over $1000.

Investigators found problems with rates for indicators of IHS resource availability based on estimates of the IHS service user population, noting, "the IHS rates reported here are not true indicators of 'availability'" (p. 15). User rates between Indians and members of the general population were not found comparable (p. 23). CSR listed five general recommendations and conclusions (p. 36):

> 1. Significant methodological problems limit the utility of the Data Comparison Methodology as a tool for comparing health service for the IHS service user population and the general U.S. population.
> 2. Even if these methodological difficulties were overcome, the value of the Data Comparison Methodology's quantitative, indicator-by-indicator comparisons is questionable, given the differences in service delivery models and critical health problems of the IHS and U.S. populations.
> 3. As an alternative to the Data Comparison Methodology, the IHS can focus on the measure of primary concern--health status. By using disparities in status as indicators of unmet needs, IHS can propose service initiatives to address those needs and thus estimate the amount of funds required to achieve health service parity for American Indians and Alaska Natives.
> 4. If the Indian Health Service wishes to pursue the aim of making indicator-by-indicator comparisons between the IHS and U.S. populations, then its data collection and record-keeping procedures need to be amended to provide data comparable to that available for the total population.
> 5. Regardless of what strategy the IHS chooses to adopt in further addressing the issue of parity, its various data collection and reporting systems need to be coordinated more effectively so that a complete and internally coherent picture of IHS resources, services and expenditures can be developed and related to the IHS user population.

Prevention is a main focus of IHS concerns. California Indian Health Association's

report, Indian Health Conditions, Sacramento: U.S.D.H.H.S., June 1986, says of Prevention (p. 5), that:

> Indians are among the fastest growing groups in the nation, resulting in a median age of 22.6 years in reservation states (1980). Women between 15 and 44 account for 25% of the IHS service population in reservation states, and pregnancy, childbirth, and the puerperium account for nearly a quarter of all IHS hospital discharges and approximately 6% of all outpatient visits. As these statistics indicate, clinical prevention services that include contraception, immunization, and prophylaxis for dental caries are most responsive to the service population's needs; and the infant mortality and infectious disease data . . . reflect the unabated need to improve existing levels of environmental health service.

Yet, despite the obvious need for prevention services among Indians, including both mixed-breed and mixed-blood families, one finds that under the consensual Agreement with the DHHS Office of Civil Rights, IHS is to be a residual resource of last resort for anyone, including the remainder client population. Note under the exceptions under the new Eligibility Regulations, at p. 21119, Exception (2):

> The IHS will provide direct and contract health services to a non-Indian woman pregnant with an eligible Indian's child but only during the period of her pregnancy through post-partum . . . . In cases where the woman is not married to the eligible Indian under applicable state or tribal law, paternity must be acknowledged in writing by the Indian or determined by order of a court of competent jurisdiction.

Thereafter, mother and child will be ineligible. The IHS offers no figures or views on the numbers to be cut off from services, or on the potential effects on Indian families of increased family costs for health services incidental to the loss of eligibility for health services affecting mothers and/or their young children following the period of eligibility. Undoubtedly, however, the numbers must be substantial, or the IHS would not consider this measure so wonder for cost-savings. Is the DHHS attitude now to be summarized, "The next generation, and prevention, be damned?"

No doubt, DHHS has developed the neat consummation of this strategy of making IHS more effective in the area of prevention by simply "preventing" vaste numbers of Indians in its IHS client population. Once this terminated, Indians become anyone else's problem at the local level, where, as a "mere" minority whose numbers are too small to be an effective voting block or subject population in themselves, the soon-to-be ineligible Indians will finally vanish. How is prevention going to work in the actual Indian population, even on-reservation, if the client population is drastically cut? How can any tribe, or the Indian community in general, or the IHS, meet the demand of producing effective prevention strategies from this point under the new IHS policies? Who is to carry this burden? No one seems to know, and DHHS defunded a study of the problem in 1985, according to Charles Dawes (1986: 12-13).

OVERVIEW OF ISSUES RELATING TO ELIGIBILITY

Uncounted numbers of non-federally recognized, terminated, newly unterminated and newly recognized Tribes, as well as members of recognized Tribes lacking land bases and/or association with the yet-to-be-defined service areas, are in peril of losing all access to Indian health services. PHS offers only this response to many unanswered questions: the new regulations will allow a certainty of cost savings to the federal government.

The move will "set limits" on the eligible service population, allocate resources among beneficiaries based on "clearly defined local service populations," and "enhance coordination of patient care in IHS and non-IHS facilities." At the same time, the Department, per a June 18, 1986 letter to Tribal Chairs from Dr. Everett Rhoades, IHS Director, has announced plans to alter the policy on Contract Health Services to to contain costs, in light of "current national Federal priorities on containing Federal expenditures coupled with changes in the medical care marketplace," while presumably reaching more of the service-eligible population for an undisclosed period.

The racially-oriented criteria employed in the proposed regulations, purporting to measure the "Indianness" of persons who seek IHS services subject to the murky standard of blood quantum, are irrelevant to the political relationship between Indian communities (and their members) and the Government.

The quarter-blood criterion for members of federally-recognized tribes now living on or near reservations ignores the effect of the vicissitudes of generations of Federal-Indian on the health of Indians throughout the United States, whether recognized, non-recognized, on-reservation, off-reservation, mixed-breed or mixed-blood. Most anthropologists and Indian genealogists will agree that very few true tribal fullbloods remain for any tribe in the country, defining true tribal fullbloods as persons whose ancestry includes persons only of American Indian or Alaska Native extraction, and of only one tribe. Indians themselves know this.

The alternative criterion of allowing half-bloods who are not tribally enrolled or enrollable to receive services simply proves that the criteria are racially based, and that political relationships and tribal or community recognition of Indian status has no more to do with eligibility for services than ability to pay or need, unless blood quantum is considered in itself a handicap or disease in some perverted sense, and therefore constitutes indicia of need. Here is the final verification of the United States' complete abandonment of national integrity and moral responsibility in the termination and relocation policies of earlier generations.

The denial of Indian Health services to Native California Indians alone will complete the process which began before the Gold Rush, expanded in the period of massacres and enslavement of California Indians, and became most odious with California politicians' intervention into the ratification of California Indian treaties. The United States, and states like California, have profitted immensurably in refusing to respect agreements with Indians, to carry out even the promises extended contractually during the period of termination. Even now, California Indian rancherias are being unterminated all over California (on the promise not to sue the United States for damages!) precisely because the United States demonstrated complete bad faith even in carrying out the termination agreements! The unrecognized tribes of California number in the dozens, and even those with tribal federal trust lands have had to litigate their status as Indian tribes, to their own great expense and stress. How will the needs of tribes recently unterminated under the settlement of the Tillie Hardwick line of cases be met under this grand new dispensation? What of the vaste number of unrecognized Indians? How will they get certification of "recognized" blood quantum, so as to gain access to services? That the Department would promulgate these new regulations without addressing such

questions can only be characterized as irresponsible, ille l, inequitable, and deeply evil.

The present administration's promise of a "safety net" of services to the "truly needy" has become a grotesque and desperately vicious lie. As that lie has manifested itself in this form, it will be exposed for what it is, whether HHS deigns to study the effects of this policy or not, and no amount of teflon will protect the agency. No fewer than twenty six members of the California Congressional delegation signed a letter to The Honorable Otis R. Bowen, Secretary of Health and Human Services, of June 25, 1986, that states: "The proposed rule is so fundamentally flawed that no amount of public comment could salvage it. This radical proposal would, by administrative fiat, remove thousands, and possibly hundreds of thousands, of Indians residing in California and other States from the population eligible for IHS services. It would, for the first time, establish race as the basis for eligibility for Federally-sponsored health care, compromising tribal sovereignty and introducing the inherently suspect concept of Federally-authenticated Indian blood. By ignoring the historical evolution of Federal-Indian relations unique to California, this proposal would lead to the termination of an estimated two thirds of the currently eligible Indians in the State from IHS-financed care."

HHS seems seems not to want to know the effect this regulation will have on a great number of Indian individuals, families or communities. Blood quantum, and residency within a particular reservation service area, with few exceptions, will determine eligibility irrespective of membership or eligibility for membership in a Federal tribe. In California, the effects, to the certain knowledge of the agency, and apparently to anyone of common sense, will be devastating even to tribal programs. What has happened to Self-Determination in the area of health care, in the light of the Department's new Indian Health regulations? It has become termination by withdrawal of funding, then by restrictive regulation, even for the Tribes. There are other alternatives that should be explored, as suggested by the Office of Technology Assessment (see cite from June, 1986 Nation Indian Health Board Reporter, below). These could include tribal and non-recognized community insurance pools authorized under special legislation to provide coverage for high-risk people, services to the uninsured through prepaid plans that may be government-subsidized, expanding coverage under such programs as Medi-Cal, and the like.

In 1981, the Reagan administration quietly began terminating the Federal-Tribal relationship in the name of Self-Determination by defunding Self-Determination programs and curtailing funding to tribal governments and Indian organizations, denying Self-Determination moneys and services to the Tribes (see Coyote Valley v. U.S., Hopland v. U.S., Karuk Tribe of Indians v. U.S.), cagily pitting Indian against Indian, Tribe against Tribe, faction against faction, government against government, encouraging every government agency and the Tribes themselves to lower the population of Indians by defining them out of existence.

Non-reservation populations are basically to be barred from any further participation in service programs, as in the early 1950s when relocation programs removed excess Indian populations from their reservations by issuing one-way tickets to places like Los Angeles, Denver and Minneapolis. The government has not demonstrated, and apparently has no desire to discover, whether providing health benefits to non-tribal members who possess one-half degree Indian blood will further Indian health conditions, let alone leadership and self-determination, as much as providing health services to Indians who are recognized by some Indian community or tribe, but who have less than one quarter blood quantum. The clear language and rationale of the regulations is to curb spending, not to assure the survival of Indian communities and individuals based on need or ability to pay. Degree of Indian blood alone will assure service, regardless of tribal membership, expressly discriminating in favor of quarter blood Indians on large reservations with a large enough service

population to justify their designation as a continuing service area, and half-bloods, whether tribal members or not. Federal tribal membership is required, in the first of the alternatives--a half-hearted and entirely cynical gesture--in a failed effort to bring the regulation's racially-based criteria into the area of a permissible "political classification."

As applied to half-bloods, the blood quantum criterion is a purely racial classification and deserves the strict scrutiny that the Constitution requires. The Department quite obviously is trying to win support for its proposal by making a racist appeal while denying the importance of tribal self-determination on the pretext which is in fact the aim of the regulation: to cut costs! Nowhere in the proposal is any promise that these will be the last cuts. Nowhere in the proposal is any promise that tribally-based programs whose cost effectiveness becomes subject to closer inquiry as the immediate result of the regulations will be protected for the benefit of the remaining service population of half-bloods and quarter-bloods. The purpose of this proposal, even its talk of providing a "transition period" for those to be terminated from services, come directly from the termination policies of the 1950s which led to the termination of Indian health services in California. This plan will supply a short transition to the complete termination of Indian Health Services in California and has no other real purpose, including assuring continuity or quality of services. The latter objectives would be obviated in the new scheme. The burden is quite obviously on the federal government to prove otherwise.

Even only on the "rational basis" level of scrutiny, the regulation cannot be sustained. The decisions of the Supreme Court and lower federal courts will not support any IHS contention that the regulations establish a purely political, constitutionally permissable classification of Indians. A political nexus between the Government and a class of Indian persons must be established by statute for the regulation to be permissable. Indian blood quantum is significant only to the extent it is tied to tribal membership. These regulations discriminate, not on the basis of tribal membership or affiliation even as the tribes define it in each individual case, but in spite of those various definitions, in order to win the support of tribes which the government says have members with high blood quanta. Tribes rely, not only on blood quantum, but on a variety of other criteria for membership, including residency, descent from a male (or female) tribal member (regardless of blood quantum! see Santa Clara Pueblo v. Martinez).

Tribes have established classifications of membership, allowing for adoption of persons of Indian blood, under their inherent powers as governments to do so. Many tribes "nationalized" persons of little or no Indian blood and included them on their base rolls, often due to pressures from bureau officials and other governments, while denying membership to persons of more than half Indian blood quantum because their non-Indian blood was black rather than white or some other race. Generally, Tribal criteria for membership based on blood quantum are the historical result of pressures exerted on the Tribes by the United States and the States to hold down on population figures. The myth of the "Vanishing Indian" is one of the Big Lies of Federal-Indian policy because it is one of the aims.

Indians by every other definition who would find themselves in the class of ineligibles would be excluded from head-count of needful service population, but would be "allowed" services if they pay. If the new "non-eligibles" get services and pay, their payments will go into third party funds, and the service programs will lose funding from the IHS virtually in direct proportion to those contributions, so that the programs will always be dependent, never be able to advance unless the total amount of third party monies exceeds the total alternative available IHS funding level. Culturally-sensitive treatment options will fall out of the reach of Native Californians and other Indians in California who no longer are "service eligible," and there will be actual disincentives to broaden the service population to include more

paying or insured clients. What equity is there in basing eligibility for health services on a test that sustains the worst aspects of institutional racism while denying services based on actual need and ability to pay? Tribes that support this legislation are cutting their own throats.

Whatever discretion the Snyder Act may vest in the Secretary, it did not vest him with authority to discriminate against enrolled tribal members solely on the basis of Indian blood quantum. Congress, by approving annual DOI budget justifications, did not impliedly ratify the Secretary's illegal conduct, nor could it do so, for Congress is responsible for acting in accordance with the Constitution; and if a regulation violates equal protection, Congress can not cure constitutional error by allowing the inequity to continue.

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THE LEGAL BASES OF THE PROPOSED REGULATIONS

The Department of Health and Human Services maintains that this regulation is simply one based on a political classification that has nothing to do with racial discrimination, except as implicitly allowed in the Snyder Act, 25 U.S.C. 13, stating in pertinent part:

> The Bureau of Indians Affairs, under the supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate, for the benefit, care, and assistance of the Indians throughout the United States for the following purposes.
>
> * * * * *
>
> For relief of distress and conservation of health.
>
> * * * * *
>
> For the employment of . . . physicians.

This power was transferred to the Secretary of Health and Human Services in 1955 under 42 U.S. C. 2001 et seq. How this legislation and subsequent amendments alter the acknowledgement of responsibility over Indians regardless of blood quantum is not articulated in the notice of proposed rules (at 21120, ff.) in the position statement issued by the Department of Health and Human Services under the heading, "Authority To Issue This Rule." As the Department's legal counsel, Duke McCloud, indicated, "The Supreme Court interpreted the Snyder Act in a landmark case entitled Morton v. Ruiz, 415 U. S. 199, 203 (1974)." McCloud relied upon the language in the opinion,

> Having found that the congressional appropriation was intended to cover welfare services at least to those Indians residing on or near the reservation, it does not necessarily follow that the Secretary is without power to create reasonable classifications and eligibility requirements in order to allocate the limited funds available to him for this purpose. . . . Thus, if there were only enough funds appropriated to provide meaningfully for 10,1000 needy Indian beneficiaries and the entire class of eligible beneficiaries numbered 20,000, it would be incumbent upon the BIA to develop an eligiblity standard to deal with the problem; and the standard, if rational and proper, might leave some of the class otherwise encompassed by the appropriation without benefits. But in such a case the agency must, at a minimum, let the standard be generally known so as to assure that it is being applied consistently and so as to avooid both the reality and the appearance of arbitrary denial of benefits to potential beneficiaries. (415 U.S. at 231-232; emphasis added).

The Department begs the question of whether the proposed regulation is rational and proper, for it attaches no importance regarding the question whether need and ability to pay for increasingly expensive services is a consideration at all. The present plan is to quietly dismantle health services on a racist basis, in the name of serving those with accepted data of blood quantum over 1/4 on reservation. The Supreme Court viewed the trust responsibility as requiring the Department of Health and Human Services to deal fairly with Indians, and thus "promulgate eligiblity requirements according to established procedures." (415 U. S. 199, 237).

It is very obviously not troublesome to the Department to overlook tribal affiliation for persons who may never be eligible for federal or tribal recognition, or even desire it. Tribal and community self-determination is not an issue for the Department. "Political" Indians can be eliminated from the service population en masse, based solely on degree of Indian blood and residency on or near any Indian

reservation, neither of which necessarily identify any Indian person as a member of a tribal political body which possesses a unique relationship with the United States. The Department's argument that the Supreme Court has sanctioned "specific treatment" of Indians based on similar definitions is not supported by a fair reading of the relevant cases, including the one, for example, that the proposal cites, Morton v. Ruiz. In Rincon Band of Mission Indians v. Califano, 464 F. Supp. 934 (S.D.Cal 1979), aff'd sub nom. Rincon Band of Mission Indians v. Harris, 618 F.2d 569 (9th Cir. 1980), IHS was ordered to increase its services to Indians living in California, both on and off the reservation, on the grounds that IHS was ignoring the responsibilities which Congress had given it. How do these new regulations address the needs of California alone? Is it just for IHS to smugly insist it is in compliance with the Rincon case in simply denying that most California Indians are eligible? Common decency, intellectual honesty, and the law have already said no.

Even though, in the four exceptions to the eligibility criteria, the Department does allow for temporary continuation of services to Indians, in certain situations, who would not otherwise qualify on a temporary and urgency basis only, in failing to allow for full implementation of the regulations, the Department is indifferent to concern for Indians "throughout the United States," under the Snyder Act. Again, the sole considerations are economic and racial, not even political in the limited sense federal acknowledgement and the trust responsibility require. Note very carefully that the definition of "Indian" for purposes of the Indian Reorganization Act, 25 U. S. C Sec. 461 et seq., of which the Indian preference law is a part (see 25 U. S. C. Sec. 472) contains no blood quantum limitation on members of federally recognized Indian tribes, nor does it even have an "on or near" reservation stipulation. See 25 U. S. C. Sec. 479. Nor do the federal regulations promulgated in 1978 under 25 U.S. C. Secs. 472 and 479. 43 FR 2393, Jan. 17, 1978, 25 C.F.R. 259.1 (a); as amended and redesignated, 49 FR 39157, Oct. 4, 1984, 25 C.F.R. 5.1 (a). The elimination of the BIA's one-quarter Indian blood policy for purposes of hiring preference was made on the advice of the Interior Solicitor. See Cohen's Handbook of Federal Indian Law at 26, fn. 57 (1982). See also Funke, Karl A., Educational Assistance And Employment Preference: Who Is An Indian?, Vo. IV, No. 1 American Indian Law REview 1, 19-32. This article cites Senate hearings on S. 3645, enacted as IRA, confirming Congress' commitment to provide educational and other benefits to Indians living in tribal status, regardless of their Indian blood degree. Blood quantum is clearly not a consideration in providing services to Indians.

In Simmons v. Eagle Seelatsee, 384 U. S. 209 (1966), affirming 244 F.Supp. 808 (E. D. Wash. 1965) did not validate general use of a one-quarter blood requirement as a means of distributing federal benefits to Indians (See Morton v. Mancari, 417 U.S. 535, 533-554 (1974). Congressional use of a blood quantum criterion in Simmons is distinguishable from the Secretary's use of blood quantum in Sec. 40.1. In Simmons, Congress was defining the tribal membership of the Yakima Nation for purposes of land inheritance in furtherance of Congress' trust responsibility to protect and preserve Indian lands. Indian blood quantum was used to establish political status in accord with tribal definition, and to prevent fragmentation of trust lands by limiting the number of potential heirs. The district court in Simmons held that in passing the Act of August 9, 1946, 25 U. S.C. Secs. 601-607, "Congress was doing no more than defining what constituted membership in the Yakima Tribes," Id., 244 F. Supp at 814, consistent with that community's definition of its own membership, strictly for the purposes of determining heirship. Further, in cooperation with the tribes again, Congress altered the effect of that blood quantum limitation by amendment, in 25 U. S. C. Sec. 607, amended Dec. 3, 1970, 84 Stat. 1974; and Senate Report No. 91-1384, 91st Cong., 2nd Sess., Dec. 1, 1970. Congress may choose to differentiate among groups of Indians in the same tribe in making a distribution of tribal assets (Delaware Tribal Business Committee v. Weeks, 430 U. S. 73, 85 (1977). Here, there are clear

differences. Clearly, these regulations will favor some tribes over others.

Alaska Chapter, Associated General Contractors of America, Inc. v. Pierce, 694 F.2d 1162 (9th Cir. 1982) also made clear that the HUD regulation created pursuant to Section 7 (b) of the Indian Self-Determination Act, 25 U. S. C. Sec. 450 (c). Section 4 of the Act, 25 U. S. C. Sec. 450 (a), defines "Indian" as a "person who is a member of an Indian tribe," without specification of blood quantum. The blood quantum issue arose from the broad language of the HUD regulation and its reference to the term "Alaska Native," using 24 C.F.R. Sec. 805.102 (1981). "ANCSA" (43 U.S.C. Sec. 1601 et seq., relies on quarter-blood Indian quantum, and, in the absence of that, on recognition as an Alaska Native by a Native village or group in which one claims membership (43 U.S.C. Sec. 1602 (b). There, the Secretary of HUD created an Indian preference regulation consistent with specific statutory definitions of "Indian" and "Native" in the Indian Self-Determination Act and ANCSA, and even though a blood quantum requirement appeared in ANCSA and therefore by derivation in the HUD criteria, there was also an alternative definition of "Native" that was less restrictive than the quarter-blood definition! based on community or tribal definition, based on political identification. Reliance on Indian blood quantum does not render an otherwise political definition racist (at 1168, fn. 10) The court observed that criteria other than tribal rolls or proximity to reservations might be used, because "<t>hese classifications, though they utilize blood quantum criteria, are clearly political classifications based on the unique non-reservation and non-tribal situation of the Alaska Natives." (at 1168, fn. 10).

If the definitions the Secretary proposes were political, any Indian would qualify based on community or tribal definition. These regulations would not further the fulfillment of the Government's unique obligations to Indian Tribes. The United States, by its policies, caused a deterioration and destabilization of Indian Health standards among the survivors of the wars of extermination. The new policy, without Congressional authorization, will exclude political Indians, while including racial Indians who may have no political status at all, with regard to any Tribe or Indian community affiliation.

These proposed health service eligibility regulations do not define tribal membership for purposes of federal administration of tribal assets, or set a standard for the tribes' determination of their own membership, but defines who is an "Indian" for the purpose of receipt of health benefits, regardless of Indian community recognition or tribal membership. It is a Secretarial, not Congressional, definition. But Congress, and not the Secretary, has plenary authority in dealing with Indians and Indian affairs. Specific tribes have not each and every one approved this legislation, and there are already vocal protests coming from tribes and tribal leaders, though perhaps not consistently so by region. Neither the blood quantum or residency criteria are tied to an Indian's political status, and neither serves the cause of self-determination of tribal communities, narrowly defining Indian communities as reservation-based to the ultimate possibility of exclusion of off-reservation areas.

What of the Department's pretext that imposing the new criteria is justified because a number of tribes have membership criteria equal to these or even more restrictive? Put aside for the moment the factual matter that tribes have had o submit historically to illegal demands from federal agents, operating on no Congressional authority to terminate Indians of less than 1/4 blood at all, to impose blood-quantum membership-restrictions in their Constitutions and Bylaws. The Department purported in its discussion of the proposed regulations (at 21120) to comport with the expressed desires of tribal governments based on 28 responses solicited in a June 6, 1983 request published in the Federal Register, which supposedly supported the imposition of "use of a blood quantum requirement" for IHS eligibility. The new regulations blithely ignore an admitted provisio the tribes added,

for they "expressed concern that we try to avoid hardship in localities where unemployment is a problem and no other health insurance exists," quickly adding that "the majority of the tribes responding stated that if we adopt a blood quantum criterion, that it be one-quarter (1/4) blood." Of these tribes, how many had already been advised or coerced into including 1/4 blood criteria in their membership requirements in their Constitutions and Bylaws, by Bureau of Indian Affairs agents? How many of these respondants had less than a quarter-blood eligibility standard for membership? The Department not only fails to address these questions at all, but hides behind the pathetically thin and ignominiously transparent pretext that it has consulted with tribes in the interests of self-determination based on these very few responses, neglecting to address the provisos that even their selected respondents insisted upon. Further, the Department utterly ignored the comments of tribal organizations, Indian organizations, other organizations, and the individual respondants, who "generally supported retention of current eligibility requirements." The Department is merely doing what it long since has wanted to do: enact and enforce racist criteria for allowing health services as among Indians.

The Department adds, at 21120, "This proposed rule does not have cost implications for the economy of $100 million or more independent of the IHS appropriation, nor will it result in a major increase in cost for consumers, industries, or Government agencies, nor will it adversely affect competition. Therefore, the Secretary has determined that the rule is not a 'major rule' under Executive Order 12291, and a regulatory impact analysis is not required." Considering the probable cost to Indians as consumers, and to private, County and State agencies that will be left with the burden of medically indigent hoardes of Indians to attend to, this statement is ludicrous beyond belief. They continue, "Further, these regulations will not have a significant economic impact on a substantial number of small entities, and therefore do not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980" (at 21120-21121). What, then, constitutes "significant impact?" These conclusory rationalizations, designed to halt inquiry, cry out for careful inspection. The Department has rejected the opportunity, by halting funding for a proposed study, to even gather information and evaluate the impact of this new set of regulations, as Charles Davies indicated (p. 12, NIHB Health Reporter, January, 1986).

The newly proposed-section designating service areas, Sec. 36.15, allows the Indian Health Service wide-ranging powers to utterly divest off-reservation areas from inclusion in designated service areas, and makes the clear implication that reservations can be excluded from service areas altogether based on considerations of cost-savings regardless of Indians' needs, consistent with the original rationalization for creating these new rules. Rural, urban, and small-reservation areas could be completely eliminated from the service population, regardless of need and poverty, and that is the only possible intent of these regulations. The effect, in California, of taking away the "on or near reservation" designation from the state-wide area, even with the exception of a few urban sites, will impose untold hardship on medically indigent Indians in those areas, and on other medically indigent persons in those areas who will then have to compete even more for dwindling available health services, and this in a state with over 200,000 Indians.

In excluding political Indians while including Indians who keep up no real community or tribal affiliation with Indians, the argument that the criteria area based on a determination that Indians of one-fourth or more blood degree who reside on, or near, reservations are entitled to priority consideration for Indian health care is without merit. The Secretary has made no effort to support this contention in any way. What about need? What about ability to pay? The Secretary has not established any basis, no "rational basis," no "compelling government interest" except the need to divert monies to support the efforts of alleged Indian Contras and like strategic

initiatives, of course, to demonstrate that tribal health and welfare, leadership, self-government or reservation or off-reservation economic developement will be secured by supplying health care to Indians Indians of any particular degree of Indian blood, regardless of tribal affiliation or membership, while denying services to persons recognized by their own communities as Indians who lack the requisite blood quantum. Non-federally recognized Indians could die in need, while federally-recognized Indians with the ability to pay are served. These criteria would succeed only in eliminating service population without justifying the move in any other way.

Even if a less restrictive equal protection standard applies, the Secretary has not carried the burden of showing the proposed regulations are rationally tied to fulfilling the government's unique obligations toward Indians. The proposed regulations set up levels of discrimination based on Indian blood degree. There will be discrimination among tribes who have varying requirements of blood degree in order to be enrolled. It discriminates among tribal members of varying degrees of blood. It discriminates in favor of non-recognized half-blood (or more) Indians against politically affiliated Indians. This change is not designed to improve Indian health conditions among the "truly needy" at all, defining "need" as it does by purely racial criteria, ignoring the needs of Indian communities, recognized by the federal government as tribes or not, to have a chance at economic development, leadership, and self-determination on and off-reservation. The immediate victims of this regulation are the formerly-eligible Indian recipients. The tribes themselves will be the eventual losers, for these individuals are the most likely to associate with and take part in Indian tribes and communities, and are the individuals whose health problems would most affect Indian tribes and communities. Indians on reservation with full tribal affiliation and Indians off-reservation who may return home at some time not allowed as a period of absence in these regulations under the exceptions would not be able to receive help, while persons of greater cumulative Indian blood with no tribal affiliation or intent to have one would always get served, merely by residing in a designated service area. This would not have the effect of encouraging tribal or community affiliation. Impact aid to populations and affirmative action favoring populations whose identification criteria are not linked to blood quantum, that is, members of other ethnicities, are inequitable in light of these regulations, for moneys are appropriated to improve conditions for communities which have no more formal definition of membership or trust relationship with the federal government than a history of discrimination. Blacks, Chicanos and Asians of less than 1/4 blood, who may even lack substantial community affiliation, are recipients of services, regardless of non-Caucasian blood quantum from any source. The only reasonable and rational purpose of Indian health services is "for relief of distress and conservation of health." The Secretary's presumption that these regulations would achieve that end are conclusory and lacking in rationality considering the potential effect. Next, U. S. and State agencies will begin classifying members of ethnic minorities based on "proven" ethnic lineage, for purposes of affirmative action.

An agency cannot act in a manner which is "arbitrary or capricious," showing a "clear error of judgment" and without "consideration of relevant factors." Nance v. Environmental Protection Agency, 645 F.2d 701, 705 (9th Cir. 1981). The Secretary must consider the effect of denying services to enrolled tribal members on the one hand, and to recognized Indian communities regardless of tribal affiliation on the other. The basis of eligibility should be involvement in the Indian community served, need, and ability to pay.

Insofar as deference to administrative expertise is concerned, such deference does not extend to judging the constitutionality of a statute or regulatory scheme. Saint Francis Hospital Center v. Heckler, 714 F.2d 872, 873 (7th Cir. 1983), cert. denied U.S., 79 L.E. 2d 679 (1984). Here application of such criteria violates equal

protection, and in a way that no legislation or case authority allows.

Does this new regulatory scheme relate in a reasonable way to the broad mandate of the Snyder Act? It is clearly unreasonable to assume that Congress intended to exclude any member of a federally recognized tribe in not specifically defining "Indians throughout the United States" in the Snyder Act. It is equally unfair to allow inconsistent interpretation of what is "Indianness" in a way that arbitrarily limits access to services, including the considerations of need and ability to pay for services. At most, tribal or community recognition would be permissable criteria. In defining "Indian" in setting eligibility criteria for vocational training in 1984, 25 C.F.R. 27.1 (i), the Department of Interior stated that the definition, paragraph (i), had been changed to conform to the most recent standard Bureau definition" (49 FR 2100, January 18, 1984), which is tribal membership. The Presidential Commission on Indian Reservation Economics established January 14, 1983 under Executive Order 12401 has recommended a definition of "Indian" for purposes of Indian economic development that is based solely on tribal membership and descendancy from enrolled tribal members. Report and Recommendations to the President of the United States (Nov. 1984), Recommendations of the Commission, p. 55. Charles E. Dawes, in "Tribal Leader Sees Danger in Use of Blood Quantum as Eligibility Standard", National Indian Health Board Health Reporter, Jan., 1985, p. 13, suggested the following definition: "An American Indian is a person who chooses to be identified as a Native American and who is a direct descendant of a person who is or was recognized by the United States government as being an American Indian." Setting blood quantum eligibility criteria is not a "legitimate policy choice" of the Secretary, as defined in Chevron U.S.A. v. Natural Resources Defense Council, U.S. , 104 S. Ct. 2778, 81 L. Ed. 694, 717 (1984). The use of blood quantum criteria is a vestige of racist policies extending backward to the last century.

Congress has taken the stance, recently, that the favored definition of Indian is membership in a tribe or Indian community, in the Indian Financing Act of 1974, 25 U. S.C. Sec. 1451 et seq., defining "Indian" without reference to blood-quantum <see Sec. 1452 (b)>, rejecting blood-quantum-based definitions present in alternative bills (H.R. 6493, S.1013), and favoring those which had none (S.1341 and H.R.9843). Congress, both houses, could have continued the old blood-quantum limitation of earlier statutes, but both houses rejected that old criterion. Both houses could have declined to include a definition of "Indian," applying the earlier limitation, or it could have accepted the blood-quantum limitation as the standard for all new educational loans under the IFA, but it did neither. The trend, favoring self-determination, is clear. In amending the regulations governing students' eligibility to attend Indian boarding schools, eliminating the 1/4 blood requirement, Congress destroyed the legal basis for the Department's argument in support of these regulations. It is interesting that the Department failed to amend its justification of the new criteria to reflect the shift in Congressional intent, as approved by President Reagan when the bill was signed into law December 27, 1985. This betrays, at the very least, a wincing degree of intellectual dishonesty. See the attached letter of the California Congressional Delegation members to Honorable Otis R. Bowen, Secretary of Health and Human Services, dated June 25, 1986.

As for published reactions from tribal people, leaders and organizations, see below.

DISCUSSION OF ELIGIBILITY CRITERIA

The Department of Health and Human Services, Public Health Service, Indian Health Services published proposed regulations for Eligibility for health services in Federal Register, Part IV, Vol. 51, No. 111, Tuesday, June 10, 1986, 42 CFR Part 36.

1. The new regulations will discriminate among Indians in a way that will effectively terminate members of the class of Indians.

These regulations expressly and deliberately discriminate against tribal Indians on the basis of racial criteria. It discriminates among tribes, rewarding those who have surrendered to inexorable pressures from the federal government to limit their membership to those of at least 1/4 blood quantum, and directly penalizes and directly moves to limit the membership of those tribes whose who have not surrendered to those pressures.

If these criteria are allowed to stand, it is difficult to see what is to prevent any unit of government in the United States, including the federal government itself, from declaring that eligibility of any non-Caucasian ethnic group for affirmative action or any special impact program will go only to those who are able to document minority status according to purely racial criteria, regardless of community recognition. As Charles Eaves reported in January's NIGH Reporter, pp. 12-13, HHS funded, but then cancelled, a study to evaluate the effects of implementing the Grace Commission's recommendation that the U. S. divest itself of health-care responsibility to Indians of less than 1/4 blood.

Nature (inherited legal and political status, not just phenotypic traits) and nurture (the experience and effect on the individual Indian of growing up, given special cultural, political, and racial status) contribute to Indian identity. Alone of all ethnic or minority groups in America, Indians of various tribes and groups also have a special political relationship, as individuals, and collectively, as tribes, to the United States. The United States, and individual states, have done all in their power to deny the sovereignty of Indian tribes and individuals; since individuals and tribes who are defined to be such have vested rights under federal law, the easiest expedient is to deny that the individuals and tribes have any right to that relationship. To terminate Indians and tribes during the self-determination era (and we write the name in small letters advisedly) is an act of moral cowardice, but not surprising. This administration talks of self-determination and only rewards and fosters termination.

2. The new IHS Eligibility Regulations discriminate as between the class of Indians and members of all other ethnic communities by defining part of the class of Indians out of existence based on a criterion--blood quantum—which members of any other ethnic group would never tolerate. Indian tribes and communities, like other minority groups, collapse indigenous minorities which have come to include large numbers of mixed-breed and mixed-blood people.

This new regulatory scheme constitutes genocide against the Indian community, continuous with programs supporting the termination of Indian tribes in the past, including massacres, removal, allotment, termination and relocation.

It seems fair to compare the present circumstances and experience of Indians in America to those of other people. At a time when Japanese-American survivors of WWII internment in American Relocation Camps (regardless of degree of Japanese blood quantum or financial need) are getting reprisals for very similar policies--framed by some of the same bureaucrats, such as Dillon S. Myer--it is a towering irony that the United States is turning its back on the tribal people it

methodically scattered and disarmed before the so-called "self-determination" era. Why are the Japanese-American victims of 1940s relocation policies receiving treatment which Native American victims of 1950s relocation policies will not? Is it not at least in part because Japan is a valued American ally that must be placated?

Japan is a Nation; and Indian tribes, by virtue of the Federal-Indian government-to-government relationship, are domestic dependent nations. Indians are, or were, or could be, members of such tribes, and until federally-recognized, are persons recognized by Indian communities with whom they identify. Good relations with tribes and their members used to be a matter of strategic necessity for the United States. The United States has disavowed the power to determine the citizenship of these tribes, but reserves the right to treat only as Indians those members of Indian tribes that the United States wants to treat as Indians, regardless of the effects of such differential treatment. The United States has inflicted its own traditions of racism on tribes and Indian communities, and if tribes and Indian communities accept this blood-quantum policy without resistance, they will be sealing the fates of their own members and descendants as short-term abettors and eventual victims of U. S. racism. If the Tribes approve this radical remedy to the "Indian Problem" of identification, their own sired progeny will revile them, if indeed those children will have any knowledge that their ancestors were Indians.

The United States has formed a relationship with political Israelis that it does not have with Jews as a religious or cultural community. The United States recognized Israel based on her 2000 year-old claims to nationhood; and the United States supported those claims, and helped establish an Israeli homeland and insure it a place in the Middle East at great cost and for strategic purposes. The claims of Israelis, and of Jews who become Israelis while retaining American citizenship, were based on criteria and tests that had very scant connections to race. Looking at this century's record of racism, Hitler required no evidence of actual cultural and political affiliation in an individual's personal history to prove the individual was a Jew. The nation of Israel requires no evidence that candidates for nationalization are of "Semitic" ancestry, only demanding proof of descent from a parent (the mother, generally) who self-identified culturally as a Jew. The United States has required no proof from Israelis that substantial numbers of them could prove "Semitic" ancestry, regardless what corner of the world (including the United States, Brazil, and China) these ethnic Jews, now called Israelis, previously called home. Jerusalem fell to Rome in 79 A.D., and the line of acknowledged prophets and kings ended. Yet the United States needed only assurance that there was a population willing to call itself Israel, and determined to do so, despite the Israelis' 2000 years' lack of possession or tenure in the Middle East, and has steadfastly supported their claims. One reason was America's recognition that Jews, as a cultural, political or racial minority, regardless of actual, proven racial character, lineal descent from the original tribes of Israel, or bloodlines, could be made the subject of exquisitely horrible discrimination and genocide, and that ethnic and religious Jews felt the need of a homeland to share their heritage and common destiny, and to work for their future needs and common benefit. Yet Israel in 1948 could by no means, had its members claimed American Indian descent, passed muster as an Indian Nation or Tribe under current Federal laws and regulations governing the acknowledgement of Indian Tribes (see 25 CFR 83. 1-11, especially 83. 7 b, c, d, e, f and g). Another reason for supporting Israel, and the determinative one for original and continuing support, was the strategic necessity, more than convenience, of having a highly vulnerable and dependent friend and ally in the Middle East which would sponsor military bases and pro-American activities there. The United States would never think of basing its patronage of Israel based on the proven semitic ancestry of its citizens, or an average of that blood quantum. The United States has sent a message to Israel and the world: "The United States does not care what the actual culture, race or

ethnicity of Israelis is; they are Jews because they say they are, and their Nation says they are; and they are friendly to our concerns; and so they will get our aid and support no matter what." There is only the general requirement of cultural affiliation and political affiliation as among Israelis. Israel enjoys the patronage of the United States without the usual opportunity of Nations to fail even if they wanted to. The United States cannot allow Israel to fail.

Yet in advancing termination policies administratively, by acquiescence or Act of Congress, the United States has distinct American Indian Tribes for the scrap heap of America's national minorities, for enrollment under the banner of "self-determination."

Alone among members of all ethnic groups, Indians, though recognized as such by their own communities, are required by states to show documentation, not only of political status, but of exact bloodline, frequently to three decimal places, in order to receive any of the benefits of their politically and racially-based minority status. Descendancy is the lone criterion, under United States v. Sandoval, which Congress can use to declare that a person has Indian status; degree of Indian blood is not a criterion, because the relationship is a political one, of United States to persons of Indian descent and their communities, whether called tribes, bands, or nations.

What reason can there be, other than the vicissitudes of economic convenience related to racism, that bars Indians from identifying themselves as such and being treated accordingly at a time when members of other ethnicities have challenged identification and classification by race by state agencies, and have failed to be able to determine their own ethnicity, where degree of non-Caucasian blood was far less than 1/4 of the non-Caucasian type?

Persons who were not enrolled in any tribe or eligible for any tribal services, who had scant rights if any in a tribe with whom they were informally identified, who lacked resident status on any reservation, have been treated as Indian for purposes of criminal jurisdiction both by the United States, States, and tribes. Under these new regulations, such individuals of less than 1/2 blood quantum would have all the burdens of Indian status without any benefits of recognition, and without any protection from institutional racism. The mythology that blood-quantum documentation is scientific proof of need of services, or the proper standard for political identification with any tribe, is based purely on institutional racism. It is not even true that these cards are accurate even in the majority of cases as a measure of an individual's inherited association with a particular tribe or band. It is not even a sure basis for phenotypic identification of individuals as Indians.

To throw the sop of allowing services to those presumably "documented" half-blood Indians on reservations and in designated service areas who are not eligible for political identification in any tribe, who may not even want tribal recognition, seems to be a move towards Indians of high blood quantum, but the criterion in no way connected to community recognition. The criterion only requires federal identification of the person as having a certain racial background regardless of the source or multiple sources of Indian ancestry. In proposing to supply services to persons of a certain arbitrarily-designated blood quantum, regardless of tribal affiliation, and then require blood quantum certification even of those who have community/group or tribal identification of all other prospective recipients, is expressly racist. It is an attempt to seduce the public, including many Indians, into thinking that the government has the interests of "real Indians" at heart, ignoring all historical evidence that the federal government merely wants to divest itself of a moral responsibility toward Indian people. The truth is that Indianness is a matter of identification with, and by, Indian tribes and communities of their members; Indianness is not verifiable by any other criteria except on a purely hypothetical basis. Under these criteria, families of mixed blood and multiple cultural affiliation due to education and nurture will be put under greater stress than ever before.

Those Indians who have intermarried with members of other tribes, whose documentation is flawed or missing, who are going through intermination at present, who have been unrecognized to the present, will in all likelihood be permanently barred from eligibility for health services from IHS, if not immediately, then in the near future. This is certainly a predictable result, given the budget cuts and prospect of more, even to the point of eliminating eligibility for the half-bloods, precisely on the pretext that budget cuts will be justified because there are not enough Indians to justify funding health service programs. There will be no incentive ever to expand services again, or to assure higher funding levels; the cuts will take place, and those served in the short run will eventually be denied services on the pretext that the programs which serve them have too small a service-eligible population to justify enhanced services for the remaining few. The next logical steps will be to curtail services based on demonstrated need, to cut programs' funding levels based on availability of third party sources of funding, including availability of marketable tribal assets (land, hydrocarbon fuels, minerals, water, etc.), to eliminate services to those of half-blood who are not members of federally-recognized tribes, then to allow services only to full-bloods, before eliminating all program funds.

3. Public health policy, future services to "non-eligible" Indians, and preventive medicine as Indian health issues.

Today, prevention is widely held to be the main focus of IHS concerns. California Indian Health Association's report, Indian Health Conditions, Sacramento: U.S.D.H.H.S., June 1986, says of Prevention (p. 5), that:

> Indians are among the fastest growing groups in the nation, resulting in a median age of 22.6 years in reservation states (1980). Women between 15 and 44 account for 25% of the IHS service population in reservation states, and pregnancy, childbirth, and the puerperium account for nearly a quarter of all IHS hospital discharges and approximately 5% of all outpatient visits. As these statistics indicate, clinical prevention services that include contraception, immunization, and prophylaxis for dental caries are most responsive to the service population's needs; and the infant mortality and infectious disease data . . . reflect the unabated need to improve existing levels of environmental health service.

Yet, despite the obvious need for prevention services among Indians, including both mixed-breed and mixed-blood families, one finds that under the consensual agreement with the DHHS Office of Civil Rights, IHS is to be a residual resource of last resort for anyone, including the remainder client population. Note under the exceptions under the new Eligibility Regulations, at p. 21119, Exception (2):

> The IHS will provide direct and contract health services to a non-Indian woman pregnant with an eligible Indian's child but only during the period of her pregnancy through post-partum . . . . In cases where the woman is not married to the eligible Indian under applicable state or tribal law, paternity must be acknowledged in writing by the Indian or determined by order of a court of competent jurisdiction.

Thereafter, mother and child will be ineligible. The IHS offers no figures or views on the numbers to be cut off from services, or on the potential effects on Indian families of increased family costs for health services incidental to the loss of eligibility for health services affecting mothers and/or their young children following the period of eligibility. Undoubtedly, however, the numbers must be substantial, or

the IHS would not consider this measure so tender for cost-savings. Is the DHHS attitude now to be summarized, "The next generation, and prevention, be damned?"

There were humanitarian, ethical and legal considerations involved in the early acceptance of the United States of its burden to provide essential services, including health care, to Indian tribes, communities and individuals. However, fears of contagion from exposure to infectious disease from contacts of whites with Indians was also a major consideration from the early days. Perhaps contagion and consequent arousal of enlightened self-interest will become a consideration again in America's Indian Health Policy. When the state of Indian health becomes a threat to the general public, then, perhaps, Indian health will become a greater priority again. The record of the present administration in shuffling public health priorities according to newsworthiness and public pressure is a matter of some notoreity. Indian Health services were affected only little by the initial Gramm-Rudman cuts, as was true for AIDS funding. The Reagan State of the Union Address for January, 1986 expressed a note of apparently sincere concern for AIDS, and a suggestion of financial commitment to fight it. However, the Reagan administration almost immediately supported cuts in AIDS funding, and Presidential Spokesman Larry Speakes suggested that the inconsistency was attributable to the President's impression that no one disease should receive particular funding emphasis. Yet in July of 1985, under Targeted Reader's authority, monies were taken from IHS to support the short-lived attempt on the part of the present administration to convince the public it was concerned about AIDS. It is perhaps in recognition of the possibility of contagious disease outbreaks, such as that of smallpox of old, that the discussion of the proposed regulations that an exception is cited to the eligibility requirements (at 21119), "(3) The IHS will provide direct and contract health services to non-Indian members of an eligible Indian's household if the medical officer in charge determines that the services are necessary to control acute infectious disease or a public health hazard," such as AIDS. Perhaps local governments will realize the need to deal with deteriorating Indian health conditions in their own dooryards as the effect of this regulatory scheme takes hold, as Indian health problems are shared with the dominant population. Perhaps the exemption is simply an unintentional irony. Individuals with such medical problems ordinarily find themselves eligible for a variety of government-paid services because their disease is a matter of public concern, even necessity, as, originally, was the creation of Indian health Service.

4. What the promulgation of these regulations proves: Federal-Indian relations, and Indian political and ethnic identity exist, and will survive, as functions of the Federal government's assessment of the extent to which defending the appearance of a national honor in continuing the Federal-Indian Trust Relationship supports the national interest.

The United States created its sequence of Federal-Indian policies to serve all of the American public, not only Indians; and if the United States did not have what it calls Indians, and perceived the need for such a class, it would do what it could to "create" that class, regardless of considerations of blood quantum, for the appropriate policy purpose, from descendants of Native North Americans, as Justice Vandevanter and his brother Justices showed in the United States v. Sandoval case in 1913. Indians and Indian Tribes no longer have the advantage of any strategic or diplomatic leverage as do Israel, and hence, Israelis. Indians have received the clear message that, based upon "purely" economic considerations, an Indian is only an Indian, and will only have political rights and identity in the eyes of the United States, relative to purely racial considerations. Indian reservations are to continue as ghettos or "homelands" in much the same sense as South African homelands. Indians who commute to or from these homelands, or for whom there is no available

habitation or prospects for employment in the homelands, must look elsewhere for community, support, services, and finally identity. Indians who have been removed from these homelands, as "excess" populations of older landed people, as in the 1950s (terminationist) relocation policy, are to be eventually and permanently divested of all political rights and entitlements as Indians. Such Indians will have no opportunity, and will be afforded no incentive, to support their own home communities and participate in the life and survival of their own home communities, even their own families, unless they are certain of a place and subsistence in the event they return to a reservation. Let it not be forgotten that Dillon S. Myer, a major architect of the Japanese internement camps of WW II, was also the architect of the Relocation policy.

When Indian tribes' average "documentable" blood quanta fall below a certain level, under these new criteria, despite all the contemporary cant about self-determination, their tribal health programs may quietly fold. How far off, then, is termination? We live under a dispensation of alleged self-determination that, apparently, is based upon the assumption that the United States will thereby conveniently terminate its relationship with Indian communities without further obligation by every convenient means, including playing on racially-based resentments among Indian communities themselves. It will be much easier to get tribes to agree to termination by divesting them, and their members, of all means of support. The tactic, as usual, is the division and stratification of the Indian communities around the country, dividing east from west, rural and urban from reservation, unrecognized and unaffiliated against under-quarter-blood recognized, to assure that there will be no later effectual resistance to the direction which federal-Indian policy will inevitably take. One suspects that an appropriate term for the present form that self-determination is taking is "constructive disengagement," to weaken tribal communities into passivity and into willingness to sell off whatever saleable assets they retain in order to assure temporary survival.

Cotton Mather once opined that European diseases were a gift from God to clear the Americas of Indians (and ended his memorandum to that effect, "Yours in the Bowels of Christ.") The "Vanishing" American Indian never did, to the consternation and chagrin of the Indian fighters and believers in Manifest Destiny, and the population is actually growing, regardless of the alimentary functions and inhabitants of the Deity. The children and grand-children of today's adult Indians (of whom 37 % will be dead by the age of 45, according to the report of the OTA, 1986), if the proposed regulations are successfully enforced, can be divested of all rights as Indians based on the marriages and pairings of their ancestors. Indians, except on large reservations with valuable fossil fuel resources, have little economic or strategic value left in the eyes of the present government, which values Indian's other contributions and potential contributions not at all. Indians without resources and without militarily strategic value are liabilities (I have compared American "defense" policies with Indian policies below, and suggested a "Modest Proposal" with apologies to Dr. Johnson.)

The present policy of Self-Determination is one of disengagement and denial of association and responsibility on the part of the United States. Witness the accord of IHS and the Office of Civil Rights, both within the DHHS, and one supposedly the watchdog of the other, entered into in 1986. Self-Determination is becoming Termination by defunding, and without express Congressional acts.

Let us recall a bit of history and policy. 1991 is the target date for final implementation of the Alaska Native Claims Settlement Act. The new eligibility regulations, by administrative fiat and Congressional acquiescence, may mark resumption of termination in the lower 48 states to coincide with that date. HCR 108, embodying the basic statement of 1950s Termination policies, has never been disavowed expressly by the federal legislature, though indeed it has never found

later Congresses. Termination policy has been in effect since this republic was founded, and its purpose has been the disappearance of the American Indians as a distinct set of populations. The only thing the United States can do if Indians will not die off is to deny that they exist, and this is precisely what the United States has been trying to do for generations. Without calling the move one of "Termination," the United States is more or less quietly moving to deny that Indian identity alone, despite tribal identification and cultural and social connections to a tribal community, is an appropriate basis for supplying vital services. Again, the tests here have nothing to do with medical or economic need. These criteria have nothing to do with federal guarantees in treaties, proclamations, agreements, legislation to provide health services to persons of tribal affiliation or descent. These criteria do not rely on ability to pay for services, neatly ignoring one of the original reasons (aside from "enlightened self-interest") for supplying these vital services.

The justifications for these regulations are based on nominal, narrow readings of tribal membership criteria, a scattering of responses to IHS requests for opinions on use of blood-quantum criteria for eligibility for health services put out in 1983, and upon a mean-spirited, cynical and deeply evil determination on the part of the present administration to wash itself of all responsibility to Indian communities, except upon the basis of invidious, narrowly-defined racist criteria regardless of self-determination policy.

The result can be, on the individual tribal level, a stratification of society strictly on the basis of blood quantum to an extent as yet unknown, while, far from assuring equitable distribution of Indian health funds, insuring that tribes will be competing based on size, historical accidents which have preserved or obscured actual blood quantum data, membership criteria, and the like. The truly needy can ill afford the cost of documentation and court battles to force the federal government or other certifying agency to comply with requests for certification of ancestry. Under this new policy, persons who have not acquired documentation of ancestry to date, with the present fiscal restrictions, will face ever greater barriers to services. There can be no equity in forcing blood quantum ~~requirements~~ on all tribes that many cannot or will not be able to satisfy. Those tribes which, due to accidents of history, mistakes of documentation, and accidents of geography, as well as size of precontact population and relative isolation from non-Indians, have high average blood quanta, will get a windfall in terms of the net effect of the new regulations on their total population. Their support of this legislation to assure funnelling of dwindling funds in their direction will afford short-term dividends, but will only aid the eventual eradication of health services to Indians.

THE GROTESQUE DISPARITY BETWEEN THE POLICIES ALLOWING MILITARY WASTE IN SPENDING, AND THE CURTAILING OF INDIAN HEALTH SERVICES; AND A MODEST PROPOSAL

I have a modest proposal here which I used to consider a little far-fetched, but which on mature reflection might actually make some sense, at least as much sense as military spending does these days. While we're rewriting history and redefining the Federal-Indian trust responsibility, let's turn the clock back to the extent of putting Indian Affairs back under the jurisdiction of the Department of Defense. The civilians at the Pentagon cannot possibly screw things up more than the civilians at the BIA, and there will at least be the assurance of a budget allocation.

Christopher Cerf and Henry Alcaral have compiled a work called The Pentagon Catalog: Ordinary Products at Extraordinary Prices (New York: Workman Publishing Co., 1986). When the DHHS talks of economy moves by Congress, let the Agency support its arguments by recalling the following list of prices for Military supplies and ordinance:

1. Antenna Hexagonal Wrench (Identical to one priced at 12 cents, the price charged in a contract between General Dynamics and the Air Force for radar adjustment tools for the F-16 fighter was 80,000% higher, or $9,609, according to Defense Budget Project: U. S. Senate, Committee on Governmental Affairs, staff investigation; incidentally, the same Air Force order for F-16 support equipment included a maintenance test stand priced at $163,843, never used because its operating instructions were not included. Contractor Part No. 3426B34G01.)
2. Antenna Motor Assembly Alignment Pin (This 2-cent piece of wire, National Stock Number: 5120-01-136-2901, as sold by General Dynamics at $7417, or the amazing bargain rate of $9,375 the pair, for the F-16 fighter plane. See Defense Budget Project, U. S. Senate, Committee on Governmental Affairs, staff investigation, in bibliography, below.)
3. Assembly, Toilet Cover, No. 941673-101 (Noting the price tag of $640, Senator William S. Cohen said of this device, "It gives new meaning to the word 'throne.'

The Coyote Valley Tribal Health Program in Redwood Valley, Calif? had great difficulty over the period of a year convincing IHS that they needed a chemical toilet on the reservation due to sanitation problems on their reservation. Their arguments were underscored eventually by a Hepatitis A outbreak in the community in the summer of 1984, as documented per the Tribal Business Manager, Priscilla Hunter, when she called me urgently on or about July 1 of that year, suggesting that I get a gamma globulin injection as a prophylactic measure, due to my having been exposed to people on the reservation. Eventually, nearly 80 of the members tested positive for Hepatitis A exposure, in part due to lack of sanitation and education measures. Don't worry, IHS and Congress, I got my prophylaxis at Kaiser-Permanente immunization clinic on Newell Avenue, Walnut Creek, Cal., July 2, 1984, not at IHS. However, the Rancheria did finally get the chemical toilet, and there's a flush toilet in the Tribal Council House.

CSR's 1986 Final Report, cited above at length, included a chart, p. 39, indicating the Percent of American Indian/Alaska Native Households with Means of Sewage Disposal Other than Public Sewer, IHS Service Areas, 1980. Using "other means" was the experience of 1.5% of the general U. S. population in 1980; for IHS in general, the figure was 14.3%. Septic Tank or Cesspool use was 24.1% for all U.S. Races, 26.4% for IHS service areas. In the June, 1986 California Tribal Health Association's Report, Indian Health

Conditions, Sacramento: U.S. D. H. H. S., p. 6, only 2.7% of the United States households were completely without plumbing, according to the 1980 Census of Population and Housing, while his service population figure is 15.5% overall, 3.2% for California. Only 1.6% of the general population has no sewage disposal, while 2.2% of the California Indian population has none. Indian Housing units for 1985 did not get indoor toilets because HIS did not have the customary sanitation line item. Yet, while some Indians were allowed to go without a pot for authorized purposes, Lockheed-California Company was building this little beauty for the Air Force fighter planes and bombers. See New York Times, February 6, June 2, 1985.)

4. Advanced Warning and Control System Aircraft (AWACS) (By Boeing, this is the famous instrument of intelligence that looks like it sprouted a mushroom with two bases. The price, in 1985 dollars, of the AWACS Equipped Boeing E-3A Sentry when outfitted with full array of radar options is $240,000,000.00. It came with the uncanny knack of identifying cars on the Autobahn as lowflying aircraft, and gets jammed by enemy aircraft, so that quaint little old F-106 fighters were able to approach within 150 feet undetected, per Coates and Kilian, Heavy Losses, in bibliography below.)

5. C-5 Aircraft (If you have to ask, you can't afford one, but I'll give you a few hints--see below.)

6. C-5 Seating Assembly, National Stock Number 1680-00-220-2806 (Air Force General Dewey Lowe said of this Flight Engineer's Seat for the Lockheed C-5 transport plane with a price tag of $13,905 that "It's not just a seat, a Lazy-Boy you might find in the house," or one might add, the out-house--see Toilet Seat Assembly, above--here is Senator Cohen's throne, surely. And guess how much the co-pilot's seat, National Stock Number 1680-00-356-2575, costs: $26,937--for the top, not the base, that part is extra--according to the Air Force Spare Parts Microfiche, accessed at Travis Air Force Base by the Project on Military Procurement, Washington, D. C., in Overpriced C-5 Spare Parts: One Year Later, see bibliography, below.)

7. Claw Hammer (Navy Training Equipment Center in Orlando, Florida originally paid $435, but was later able to negotiate a price a full 10% lower--See Defense Budget Project: U. S. Senate, Committee on Governmental Affairs, staff investigation; Congressional Record, May 15, 1984, p. H-3923. Explanation for the contrator's billing price was the need to avail itself of accounting procedure in which the manufacturer's overhead costs for an entire contract are divided by the number of items being supplied.)

8. Coffee Maker (Yes, the famous one made by Weber Aircraft Company, which put in 137 man-hours assembly labor at $1,181 to build the ten-cup pot, supplied without the pot, for $7,622.00, including $2,856 for materials, $1,760 for utilities and other overhead, $718 for administrative costs and $548 for labor. National Stock Number 7310-00-199-4061. See Overpriced C-5 Spare Parts: One Year Later in bibliography below).

9. Diode (Usually priced at 4 cents apiece, the 1983 purchase price was $110.00, as specified on a Sperry Systems Invoice, #2A03346, dated February 15, 1983, received at Lemoore Naval Air Station, Lemoore, California, National Stock Number 5961-00-842-9864, according to U. S. Senate Committee on Governmental Affairs, staff investigation, Official Transcript, Hearing Before the Investigations Subcommittee of the House Committee on Armed Services, July 13, 1983.)

10. F-14 Seat Cushion (National Stock Number 1670-01-087-7717, a set of these glorified whoopee-cushions was procured at $528.95 per unit by Miramar Naval Air Station on June 19, 1982, giving a whole new meaning to

the expression, "CYA," according to Official Transcript, Hearing Before the Legislation and National Security Subcommittee of the House Committee on Government Operations on Department of Defense Spare Parts Procurements, July 11, 1985.)

11. Light Bulb (National Stock Number 6400-00-155-7857, this unit, at the 1983 purchase price of $44--as specified on Sperry Systems Invoice # 2A0346, dated February 15, 1983, received at Lemoore Naval Air Station, Lemoore, California--looks curiously like a pen-light battery. It is used on an F-18 fighter simulator, and ordinarily runs 17 cents. See Official Transcript, Hearing Before the Investigations Subcommittee of the House Committee on Armed Services, July 13, 1983.)

12. Nut, plain, steel, hexagonal (It is hardly worth having a separate entry for the $37 screw for the McDonnell Douglas F-18 Navy fighter plane, reported by A. Ernest Fitzgerald and Senator Charles Grassley on the Donahue Show, Transcript # 06214, 1984, this plain round nut is much more impressive. One assumes it is equipped with a microcomputer, at least, but its advantage appears to be its essentially pristine, one might say more-is-more zen-like simplicity. McDonnell Douglas sold the Navy a 13 cent nut--six sided, with beveled edges, made of steel, National Stock Number 5313-01-130-8413--for $2,043.00, according to U. S. Senate Comittee on Governmental Affairs, staff investigation, cited in Comeau's Nuts and Bolts at the Pentagon, see bibliography, below.)

13. Refrigerator, Lunch Pack (The Caddy of Coolers, and a 1984 price of $12,000, Lockheed sold this one to the Navy for the P-3 Orion Submarine Hunter. Lockheed spokesman Rich Stadler, as reported in the New York Times for June 2, 1985, justified the astronomical tag on this 2 cubic foot capacity item as follows: "You're not just thinking about keeping people's dinner cold between London and New York. You're thinking about what happens if we have a war and this sucker gets shot down someplace--are these things still going to be working." The Lunch Pack was an economy move, actually. The skinflints of the Navy turned down a 3 cubic foot model which runs $4,571 more.)

14. Plastic Stool-Leg Cap (Roughly like a pill-bottle cap without threads, this austere item, whose price included the standard surcharge to cover "inflation, transportation costs, special packaging, obsolescence, breackage, deterioration, pilferage, etc.", National Stock Number 5340-01-040-4512, as reported in Comeau's Nuts and Bolts at the Pentagon--see bibliography, below--fits on the bottom of a stool in the AWACS Radar Plane. Intended to prevent skids in the moving plane, it is--naturally--made at an actual 34 cents out of high-grade, ultra-slippery, state-of-the-art teflon. Enough said.)

The bibliography (p. 62) is very helpful, and includes the following items of particular interest:

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U. S. Department of Defense, Inspector General, Draft Report on the Audit of the Procurement of Aircraft Engine Spare Parts (Project 3AP-021). Arlington, Va.: June 10, 1983.
U. S. House of Representatives, Legislation and National Security Subcommittee of the Committee on Government Operations, Management of DOD's High Dollar Spare Parts Breakout Program, Hearings, April 13, 1983.
U. S. House of Representatives, Legislation and National Security Subcommittee of the Committee on Government Operations, Abuses In DOD Spare Parts Procurements, Hearings, July 11, 1985.
U. S. House of Representatives, Investigations Subcommittee of the Committee on Armed Services, Examination of Armed Services Policies and Procedures in the Procurement of Spare and Repair Parts, and the Pricing Thereof of These Items, Hearings, April 19, 20, May 25, June 9, July 13 and October 6, 1983.
U. S. Senate, Committee on Governmental Affairs, Purchasing of Spare Parts and Support Equipment in the Department of Defense, Hearings, November 2, 1983.
U. S. Senate, Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, Agency Policy: Controls and Responsibilities Within the Enunciation of That Policy, Hearings, September 19, 1984.
U. S. Senate, Task Force on Selected Procurement Matters of the Committee on Armed Services, Defense Procurement Process, Hearing, September 13, 1984.

In the words of A. Ernest Fitzgerald, Deputy to the Assistant Secretary of the Air Force for Financial Management, "Military aircraft are just a collection of . . . spare parts flying in close formation" (Cerf and Beard 1986: 58).

EARLY PUBLISHED REACTIONS TO PROPOSAL OF NEW HEALTH REGULATIONS

Bishinik June 1986, a summary of the health regulations, calling for protest of new regulations.

Cherokee One Feather June 18, 1986, a summary of the health regulations.

Cherokee One Feather June 25, 1986, statements from Daniel McCoy, Chair, of Tribal Council, Eastern Band of Cherokees, strong opposition to the new regulations; to Daniel McCoy from Donald Ian McDonald, Acting Assistant Secretary for Health, stating that most of the Tribes favored some form of blood quantum test, and that the proposed new criteria are still under review. McCoy's position is that the new regulations "ignore the sovereign authority of the tribe to determine its own membership," and amounts to "a reduction in the level of community health."

Cherokee One Feather July 9, 1986, a summary of the health regulations, the June 25, 1986 articles, and mentions basic concurrence of National Indian Health Board with McCoy. Cites grandfather clause.

Glacier Reporter July 17, 1986, a summary of the health regulations.

Lakota Times June 25, 1986, a summary of the health regulations and articles from Rapid City Journal and Sioux Falls Argus Leader, "Protest Proposed Health Cuts," citing Charon Asetoyer, of Lake Andes Area American Indian Community Board, and cites Michael Landreau, Chair, of Lower Brule Sioux, and from Calvin Waln of Rosebud Sioux.

National Indian Health Board Health Reporter January 1986, Charles E. Dawes, Second Chief of the Ottawa Tribe of Oklahoma, pp. 12-13, protested new health regulations.

National Indian Health Board Health Reporter May 1986, protested new health regulations.

National Indian Health Board Health Reporter June 1986, "Tribal Comments Sought on Proposed New Eligibility Regulations," most compete available printed account, offering alternatives from the PHS's Office of Technology Assessment. At p. 3, the article noted, "As NIHB Billings area representative put it, 'Determining who should be served by IHS is a matter of tribal sovereignty, and it is a decision best addressed at the local level by the tribes' elected governing body. They are in the best position to know who should be served." NIHB representatives agreed, indicated concern over general cutbacks in services, and wanted "grandfathering" of Indian persons presently dependent on IHS for health care. The Office of Technology Assessment's Final Report considered several alternatives to the Department's proposals to eligibility:

1. IHS or Congress could develop a priority system for access to IHS services, setting priority in decreasing order to (a) tribal members who live on or near the reservation; (b) members of the Indian community who have close economic and social ties to the tribe; and (c) all other currently eligible Indians.
2. IHS or Congress could use blood quantum criteria to supplement rather than restrict eligibility based on tribal membership, including federally recognized persons and descendants of quarter-blood members of federally-recongized tribes.
3. If eligibility criteria are made more restrictive, Congress could make IHS services less a residual source of care and more an entitlement program. With restriction purportedly going to support the trust responsibility in a direct way, it would be

"reasonable to argue that health care should increase as explicit part of the trust responsibility."

-The Native Nevadan, July 1986, brief critical report on new health regulations.

Navajo Times, June 4, 1986, "Rhoades Says IHS Money Eroding," by Lenore Begay, report from Navajo Nation Health Symposium; Dr. Everett Rhoades proposed that in light of inevitable cuts, Navajo Nation focus on preventive care.

Navajo Times, June 13, 1986, "IHS Seeks to Limit Health Care," by Carolyn Calvin, report from John O'Conner, of National Indian Health Board, saying Navajos would not be hit as hard by the new health eligibility regulations as Oklahoma Indians, because Navajo Tribe requires 1/4 blood quantum for enrollment. Douglas Peter, chief medical officer of Navajo area IHS says they have not been advised fully on the proposal, and when more information is available, public meetings will be held.

Navajo Times, June 16, 1986, "Indian Bloodlines," summarizes IHS proposal, saying IHS no longer would be serving 40% of people now served and this would mean big savings for the IHS. The proposal undermines tribal sovereignty yet "some government officials said persons with little Indian blood were never intended to be eligible for federal benefits."

Navajo Times, June 30, 1986, "Reagan Seeks to Curb Indian Health Benefits," by Spencer Rich, reports that the National Congress of American Indians, and more than 150 tribes, opposed the regulations.

Navajo Times, July 7, 1986, "Indian Country: Who is Indian?" summarizes impacts on Indian people of proposed eligibility regulations. "Many Indians say they oppose the proposal, because it empowers the United States to determine Indian identity. They say that power should be reserved to Indian Tribes. Reagan takes the position of its savings to taxpayers. But, also it would be more fair than the present syst." If the proposal is passed, "as many as 2/3 of the California Indians would lose free health care."

Navajo Times, July 14, 1986, National Association of Counties proposes to clarify the sovereign status of Indian tribal governments as a function of population size. Drafted by Frolich-Wallar Associates of Kirland, Washington. Three categories.

OKC Camp CrierJuly, 1986, p. 4, "Indian Health," short review.

Sho Ban News <Shoshone-Bannock> July 15, 1986, p. 10, "Reagan Proposes IHS Cut-Off Point," from Washington Post; asks, "How do you feel about proposed rules?", requesting public comment by Shoshone-Bannock Tribes on proposed revision of Indian Health Service eligibility, at Ft. Hall in Tribal Council Chambers on Aug. 7, 10 am to 7 pm. Public hearing will be coordinated by Dr. Tom Austin, Assistant Area Director for Operations, Portland.

Sho Ban News <Shoshone-Bannock> July 17, 1986, p. 10, "Many IHS Patients May Feel Crunch if Proposal Flies," interview of Fort Hall PHS Indian Health Unit Director, and service clerk, evidence for adverse impact on local health.

National Indian Health Board Health Reporter January 1986, Charles E. Dawes, Second Chief of the Ottawa Tribe of Oklahoma, pp. 12-13, protested new health regulations.

National Indian Health Board Health Reporter June 1986, "Tribal Comments Sought on Proposed New Eligibility Regulations," most complete available printed account, offering alternatives from Office of Technology Assessment.

TULE RIVER TRIBAL COUNCIL

TULE RIVER INDIAN RESERVATION

Testimony of Philip D. Hunter, Chairman
Tule Rive Tribe of California to the U.S.
Senate, Select Committee on Indian Affairs
June 30, 1988

Mr. Chairman, my name is Philip D. Hunter and I am the Chairman of the Tule River Tribe of California. I greatly appreciate the opportunity to present the testimony of the tribe on the Indian Health Service (IHS) eligibility rule published in the Federal Register, September 16, 1987.

We are in total support of the withdrawal of the federal notice that mandates changes in IHS eligibility guidelines (Federal Register, 42 CFR, Part 36). We definitely feel this new rule reflects poor public health policy, is not cost effective and jeopardizes tribes ability to effectively manage their own health care program. We feel that tribes must have firm and accurate data about the economic, social and cultural impacts of the new regulations before any changes to into effect. This rule has been poorly researched in terms of the impact and we believe the Secretary of the Department of Health and Human Services (DHHS) must REPEAL this rule on eligibility.

The Tule River Tribe, which adopted a Constitution and By-Laws in 1935 and which were approved by the Secretary of the Interior on January 15, 1936, passed unanimous a resolution early this year. The resolution recommended the U.S. Congress direct the DHHS to rescind the new eligibility rule and proceed with the existing eligibility regulations for California and recommend the U.S. Congress direct the DHHS in conjunction with the Bureau of Indian Affairs (BIA), California Tribal Health Association, California Rural Indian Health Board, Inc., and tribal government to conduct a study on the long-range impact of the loss of health care services to non-federally recognized California Indians. Our resolution also recommended that

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Congress direct DHHS to put aside all action to establish new service areas in California until an impact study has been made, that Congress study on the DHHS newly proposed service areas, that Congress direct the DHHS to meet with tribal governments to get their approval of the DHHS consultation process and final report, and that written documents be part of the final report. The IHS eligibility regulation only adds to the tribes problem of having services excluded due to lack of tribal consultation, along with inadequate funding levels and other factors which mitigate against having their needs met. It is unthinkable that some fourteen (14) years have gone by yet the two major federal agencies (i.e., IHS/BIA) render patterns of deprivation and helplessness of our tribe.

If the IHS eligibility regulation would be implemented today on the Tule River Tribe, the impact would be felt immediately. Our tribal community have incomes below the national poverty level, inadequate housing, lack of water, transportation, isolation and are in constant jeopardy of deteriorating health conditions.

Our tribe challenges the IHS insensitivity toward the California tribes for attempting to screen out community members and potential tribal members.

We are prepared to do all that is necessary to protect our rights. But, we are also prepared to pursue a course of consideration and cooperation with hope that all matters benefit all parties involved.

The IHS has not lived up to their responsibility concerning the equity funding for California Indians (Rincon Law Suit). California tribes appear to be at risk of losing programs upon the directive of either the IHS or BIA.

Statement of Tule River Alcoholism Program (TRAP) Before Senate Select Committee On Indian Affairs Oversight Field Hearing IHS Eligibility Final Rule

Tule River Alcohol/Drug Treatment Center is another tribal program that will be severely impacted with the implementation of the IHS eligibility regulation. Our TRAP staff also recommends that the Senate Select Committee initiate legislation to abolish this adverse IHS eligibility regulations.

TRAP is a Reservation Base Program that generates commerce on the Tule River Reservation.

The Tule River Reservation economy has been declining over the last few years.

The Tribal Council looks upon our program as exercising our tribal right to manage our own contracts through P.L. 93-638. Our program has never been consulted by IHS/California Area Office (CAO) director as the potential impact on the IHS eligibility final rule.

TRAP receives Native American clients from every part of Indian country. Proof of Indian ancestry has been the criteria for eligibility if a client is not enrolled. Without this referral, the reservation program would have to close it's doors.

TRAP has interest in applying for Alcohol/Drug Regional Treatment Program. For over a year IHS/CAO has not kept our program informed or consulted about the Omnibus Drug Bill P.L. 99-570 Regional Treatment Center.

You can see Mr. Chairman, that Tribes and Tribal Programs in California are not being consulted and trained according to P.L. 93-638 Self-Determination Regulations. For the reasons stated above, we request additional Senate Select Committee field hearings be held concerning the non-compliance with carrying out both the IHS/BIA fiduciary responsibility to the Tribes of California.

Mr. Chairman, on behalf of the Tule River Tribe of California, we respectfully request that your committee, after hearing the California Tribes testimony today, do not support the IHS final eligibility rule and the Congress RESCIND this rule.

Thank you.

North Fork Mono Tribe

P.O. Box 49 North Fork, Ca 93643

Dear Senator Inouye and committee,

Speaking on behalf of the North Fork Mono Tribe, we welcome you to California. It is good to see our Congressional leaders come to hear the Indian at home.

Unfortunately, we gather not on a positive note nor do we discuss new business. The issues we're faced with today are the same issues we've been negotiating over for 138 years.

In California the tribal groups reference is the unratified Treaties of 1851. The recognition bestowed upon our ancestors at that time was to insure a workable government to government relationship. A Treaty of Peace from the California Indian, in return for townships, schools, churches, medical, land (including farm livestock and tools) as well as a local government for better communication.

Yet that communication never came during the next 53 years that the unratified treaties were table. Not until they were vetoed and the enactment of the 1906 Indian Allotment Act was established did the U.S. Government begin a government to government relationship. The non-recognition of California Indian tribal groups began when the Government purchsed Rancheria land for the so called "homeless" Indians. Meaning Indians who had not already acquired lands through other means such as the Homestead Act in the 1880's or the Indian Allotment Act of 1906.

The Federal recognition staus bestowed to the Rancheria's is due to the Federal land base. From this point forward the U.S.Govt. has dealt with the Reservations and Rancheria's foremost but including those Indians not on but in association with the Federal land base.

The issues of Tribal recognition, education, health, housing, land, economic development, sovern rights, religious freedom rights have all been dealt with on a separate basis, each with its own contraditing resolutions. Each resolution addressing what constitutes an Indian. The American Indian, the only member of the human race still trying and having to prove who they are. A people who has more numbers attached to them than 'carter has pills' and whose numbers add up to more than what our president has in knowledge of the native people in America.

Today, we are being denied our sovern rights, our educational benefits, our religious freedom rights, housing benefits, robbed and swindled out of our land, limited in our economical development to where our people have the highest percentage of unemployment in the United States. Now our gravest pitfall of all is upon us, were about to lose our rights for health care.

When the Indian is broke he goes hungry, without a house and land he has only the street to turn to, without his religion he is not of spirit, without an education he has no understanding of today's society, with poor health he cannot walk proud and without sovern rights he is a man who is broken.

We are few today but we are strong. Yet we can only exist so long on our will alone. The programs which have been implemented over the last twenty years have been effective. The Indian Health Service has created a change in the health statistics of our Elders, youth and babies. But the heart attack age is still the lowest of all peoples in America. This is no time to give up on our Indian Health Service, as there is still a very high need for health care provisions

Sincerely,

Ron W. Goode

Ron W. Goode
Tribal Chairman

STATEMENT OF THE UPPER LAKE BAND OF POMO INDIANS, PHYLLIS HARDEN, CHAIRPERSON TO THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, OVERSIGHT IHS ELIGIBILITY FIELD HEARING.

MR. CHAIRMAN IT IS AN HONOR FOR ME TO APPEAR BEFORE YOU TODAY AND TO PRESENT TESTIMONY CONCERNING THE IMPACT OF THE PROPOSED IHS ELIGIBILITY REGULATIONS ON CALIFORNIA INDIAN TRIBES. THE UPPER LAKE RANCHERIA IS OPPOSED TO THE IHS ELIGIBILITY REGULATIONS AND WE ARE REQUESTING THAT THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS INITIATE LEGISLATION TO ABOLISH THE IHS ELIGIBILITY REGULATION INDEFINITELY.

THE UPPER LAKE RANCHERIA WAS TERMINATED DURING THE RANCHERIA TERMINATION ACT OF 1958 AND WAS NOT RESTORED BACK TO FEDERAL TRUST STATUS UNTIL 1978, THE UPPER LAKE RANCHERIA RECEIVED FEDERAL RECOGNITION, BUT ARE LANDLESS AS A TRIBE.

THE MAJORITY OF OUR TRIBAL MEMBERSHIP DO NO HAVE ANY RANCHERIA LAND TO HAVE HOMES BUILT AND/OR ANY OTHER SERVICES THAT A FEDERAL LAND BASE TRIBE MAY ENJOY. BECAUSE THE PARTICULAR WAY IHS SERVICES WERE BROUGHT BACK TO CALIFORNIA, ONLY THIRTY-SEVEN (37) COUNTIES BECAME IHS CATCHMENT AREA. WITH NO LAND BASE, THE MAJORITY LIVE OUTSIDE THE LAKE COUNTY SERVICE AREA AND OUTSIDE THE THIRTY-SEVEN (37) CATCHMENT COUNTIES. THE UPPER LAKE BAND OF POMO INDIANS LOOKS AT THE IHS ELIGIBILITY REGULATION AS ANOTHER THRESHOLD TO FURTHER DENY OR RESTRICT SERVICES TO TRIBAL MEMBERS. NO WHERE IN INDIAN COUNTRY HAS TERMINATION SEVERELY IMPACTED INDIANS AS IT HAS IN CALIFORNIA.

THE UPPER LAKE BAND OF POMO INDIANS IS ALSO EXPERIENCING DELAYS IN HAVING THE BIA SANCTION THEIR GOVERNING DOCUMENTS. THE UPPER LAKE BAND OF POMO INDIANS, UPPER LAKE RANCHERIA, IS NOT ALONE IN BEING LANDLESS, OR WITHOUT APPROVED GOVERNING DOCUMENTS TO PROVIDE FOR ENROLLMENT OF POTENTIAL TRIBAL MEMBERS.

THE UPPER LAKE BAND OF POMO INDIANS THANKS THE HONORABLE DANIEL K. INOUYE, CHAIRMAN, SENATE SELECT COMMITTEE ON INDIAN AFFAIRS FOR HAVING THE FIRST OVERSIGHT FIELD HEARING IN CALIFORNIA. THE UPPER LAKE BAND OF POMO INDIANS REQUEST THAT THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS HOLD ADDITIONAL FIELD HEARING IN CALIFORNIA TO RESOLVE THE MANY DIVERSE AND COMPLEXITIES THAT THE TERMINATION ACT PROMOTED.

THANK YOU.

RESPECTFULLY SUMBITTED,

Phyllis Harden

PHYLLIS HARDEN

Hello. My name is Elsie Icho Tennant, Elder, Wukchumni Indian. I address my testimony to the Sacramento County Board of Supervisors, all official dignitaries, Tribual Chairpersons, and people.

I will leave all legal jargon to the well educated members of this gathering and speak on a more basic level.

The Indians of Tulare County have two Health Clinics to take care of our needs. I am asking all of you to speak or write letters on behalf of my family, the Icho clan.

In the days gone by, my grandfather, Henry Icho, was the Wukchumni Tribe Bear Dancer and last chief. I, Elsie Icho Tennant am proud to say I am one of the granddaughters of Henry Icho. In 1934, I was a small child when I lived at Grandpa Henry and Granma Maggie's campsite. I remember riding in the horse and buggy with my grandparents. One day I played hookey from school and went with my grandpa and grandma to the foothills to gather wild onions. It must have taken place in early spring when the wild onions are plentiful. We must have eaten them fresh and grandma dried the rest to flavor the food during the winter months.

I can remember Grandma Maggie as the elder who was knowledgeable and consulted in matters of herbs, midwife, and mournful crier at all night wakes. So you might say Grandmother Maggie was our tribes Indian doctor. In no way was she considered a witch doctor. My father, Bob Icho, told me we had a witch doctor. The witch doctor used all Mother Earths resources and spoke to the Great Spirit for healings. In order for him to be controlled, the chief's wife had to be one up on him so he wouldn't poison or cast evil spirits on the chiefs clan.

I can remember as a child the dread my people had of white doctors and hospitals. They mistrusted the white doctor because at one time, didn't we have our own doctors? They thought of a hospital as a place to die. Consequently alot of our people stayed home and waited until they were too sick to care when a family member took him to a white man's hospital. This is what is good about the Visalia Health Clinic because a Indian feels more comfortable about entering the waiting room and seeing Redskin and being helped to fill out forms by a Indian. For the families that do not live on a reservation, it is a hardship to plan a trip to the Tule River Reservation. A family is required to have good transportation, gas, and food money. Also, it takes a full day to get the help they need. At least it's closer to travel to Visalia and if they have to go to the Hillman in Tulare, they will be waited on by non-Indians.

There are sixteen people and one due in the fall that are members of the Icho clan in Visalia. We would be adversely affected by the closing of the Visalia Health Clinic.

I beg of you young people to pick up the Staff and carry it and inform the non-Indians of our plight so your voices can be heard all over the Mother Earth.

Respectively

Elsie Icho Tennant

ELsie Icho Tennant

Elder, Wukchumni Council

July 3, 1988
1005½ N. Divisadero St.
Visalia, Ca. 93291
Elsie Tennant

Lenna M. Aoki
112 Hart Senate
Office Building
Washington, D.C. 20510

Ms. Aoki,

It was a privilege to attend Senator Inouye Senate Select committee hearing in Sacramento California. I testifed on S. 129 and my personal concern about how my family would be adversely handicapped if all the valley Health Clinics are closed.

I am a elder of the Wukchumni tribe, Tulare County, California and we are working toward Federal recognition. In many ways I am not as knowledable about the U.S. Government & 's the American Indian and governmental laws and pending issues. In my small way I plan to write and add my input concerning many problems that affect my people. I come from a large family and I am trying in every way to interest my Clan's young people in Indian awareness.

Sincerely,
Elsie Icko Tennant

P-S. 2250 is another issue that is close to my heart

and it is important that we will not be hindered by opposing the American Indian religious act. It is like one of the 6th senses to be a human being. We have our own religion and wish to continue practicing our religion. Even though the government wants to take away our very being as a Indian we are gathering together and teaching our children the old traditional and spiritual way

Ho!

(The end)

HONORABLE SENATOR DANIEL K. INOUYE, CHAIRMAN
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, SACRAMENTO
June 30, 1988

My name is Mickey Gemmill, Spokesman for the Toyon Wintu Indian Community residing on 61 acres near Redding, in Northern California.

In May, 1971, Indians in Shasta County composed of members of both the Pitt River and Wintu tribes, physically occupied surplus federal property known as Toyon, in order to establish a land base for the Wintu people, where they could exist as a viable Indian community intent on pursuit of tribal recognition and restoration of tribal rights and benefits. The Northern Wintu people are direct descendants of one of the largest historical tribes in terms of both population and ancestral territory in the State of California. This fully autonomous sovereign group was illegally dispossessed of its ancestral lands by the United States government under several federal acts, including the non-ratification of treaties signed by Wintu people and most California Indians for creation of reservation lands that of course, the Indians in California have never received.

Indians in Shasta County were devastated by the impact of one of the largest gold strikes in the state and the genocidal practices of the American settlers and gold seekers. There were numerous massacres in our area including the total extermination of the Nosse or Northern Yana people by 1858. The State of California paid bounties to kill any Indian and successfully lobbied Congress to secretly hold closed door hearings and were successful in their efforts of non-ratification of treaties signed with California Indians.

Between 1850 and 1900, the largest Indian population in the United States was reduced from 300,000 people to 10,000, comprising almost total genocide or more than 95% of the original population.

Today, there are approximately 1000 Wintu descendants living in Shasta County without a land base or any lands and still seeking federal recognition. Health services provided by the Shasta Trinity Rural Indian Health Project have been in existance since 1969 and is one of the original nine projects bringing Indian health services back into California.

Today, this project is the only rural Indian project left in the state, not authorized by a tribal resolution, obviously, the existence of this project and the vital services are in serious jeopardy if the current proposed eligibility regulations are enacted into law.

There are many California Indian groups in similar status as the Wintu..... seeking federal acknowledgement or recognition.

This is a process that takes a minimum of five (5) years and in most cases, much longer. Therefore, the northern Wintu people wish to go on record in opposition to the proposed regulations and recommend full withdrawal of the proposed eligibility regulations.

American Indian Council of Mariposa County

P. O. BOX 1200 • MARIPOSA, CALIFORNIA 95338

Nick Brocchini
Chairman

Louis Coleman
Vice Chairman

Regina Rhoan
Secretary

Sara Lovell
Treasurer

Della Hern
Director at Large

To: Senator Daniel Inouye, United States Senate
Chairman Senate Select Committee on Indian Affairs
SH-838 Hart Senate Office Building, Wash. D. C. 20510

-RESOLUTION-
No. 05-88

WHEREAS: the American Indian Council of Mariposa County do hereby submit this resolution to this committee with respect and ask that they will assist the California non-federally recognized Indian people with continued health care services, and

WHEREAS: the Indian people of Mariposa County along with many other Indian tribes, bands or groups throughout the state of California are in the non-federally recognized status, and

WHEREAS: the Indian population of Mariposa County along with many other Indian tribes throughout California will be eliminated from (IHS) health care services as mandated by the Final Rule on Eligibility as of Sept. 16, 1988, and

WHEREAS: in the 1850's it was the U. S. Government who created the situation or problems as they exist today by the failure by congress to ratify eighteen (18) treaties with California Indian tribes, bands or groups during that period, therefore the majority of California Indian tribes today are non-federally recognized, and

RESOLUTION-No. 05-88
Page two.

WHEREAS: the American Indian Council of Mariposa County submitted a petition for Federal acknowledgement to the Washington D.C. BIA office in 1984 with the intent of becoming federally recognized as a California Indian tribe. The petition is still in the review process with the BIA Branch of Acknowledgement and Research, and

WHEREAS: on Feb. 6, 1988, a Federal Acknowledgement Workshop was held at Clovis, CA. and on that date an Association For Non-Federally Recognized Tribes of California was formed. The American Indian Council of Mariposa County became a member of this association. The purpose of this association is to support efforts of non-federally recognized California Indian tribes to gain Federal Tribal Acknowledgement either by administrative or legislative means, and

THEREFORE BE IT RESOLVED the American Indian Council of Mariposa County do here-by ask the Honorable Senate Select Committee on Indian Affairs to recommend to the U. S. Congress to direct the Department of Health and Human Services and the Indian Health Service to rescind the Final Rule on Eligibility and proceed with the existing health service eligibility regulations for California, and

BE IT FURTHER RESOLVED the American Indian Council of Mariposa County ask the Senate Select Committee on Indian Affairs to meet with the Non-Federally Recognized Indian Tribes of California who will be affected by the Final Rule on Eligibility on Sept. 16, 1988. That many of California's non-federally recognized Indian people had no written notice of this most important hearing. That many of the same people did not have the opportunity to submit position papers to this committee, and

BE IT FURTHER RESOLVED that the American Indian Council of Mariposa County ask the Senate Select on Indian Affairs to convey the statements of the California Indian people to the U. S. Congress in a strong and positive manner. We thank this committee for their assistance at this crucial time.

Submitted on 6/30/88.

The American Indian Council of Mariposa County

Signed by: Chairman Nick E. Brocchini

Attest - Council Member Gay Johnson

Attest - Council Member Lea Jones

June 30, 1988

Senator Daniel Inouye, Chairman
U. S. Senate Select Committee on Indian Affairs
SH- Senate Office Building
Washington, D. C. 20510

Dear Senator Inouye:

I am a member of the Chuckchansi-Miwok Tribes, and live and work in Yosemite National Park in rural Mariposa County. My parents, grandparents and their parents and so on down the line have inhabited this region for centuries, as have relatives and friends who reside in other counties surrounding Mariposa, i.e., Madera, Fresno and Merced Counties.

We are concerned of the future of health care of those individuals such as myself who are not recognized by the Bureau of Indian Affairs and the United States Government.

Currently the members of the Counties of Mariposa, Amador and Calavares are receiving health care from the Tuolumne Indian Health Clinic, which offers not only medical and dental care but also provide referrals and counseling for drug, alcohol and mental health programs.

This Clinic is located on the Tuolumne Indian Rancheria in Tuolumne County. The Rancheria and its members are recognized by the Bureau of Indian Affairs and the United States Government as a tribe.

For a number of years many of us traveled as much as 80 miles one way to receive dental and health care from the Tuolumne Clinic. Approximately 4 years ago the Clinic expanded their services to Mariposa and Amador Counties. In Mariposa a dental office is being constructed and will be in use in a few weeks. The demand for health care has increased. I believe approximately 70% of the Indian community in Mariposa County is in the low income bracket.

This day at high medical costs and the proposed legislation to curtail health services to non-federally recognized tribes will be devastating.

Preventive medical care has sustained the lives of many low income families especially our elders and young parents and children who have suffered many setbacks because of situations beyond their control.

Senator Inouye, I ask of you do what ever that is in your power to oppose this act of discrimination against us that are not recognized on paper.

Indians are Indians, we do not ask if we're federally recognized when we socialize.

I thank you on behalf of my friends and relatives for giving me the opportunity to oppose this legislation.

Respectfully Yours,

Les James

Les James
P. O. Box 273
El Portal, CA
95318

TESTIMONY BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, OVERSIGHT ELIGIBILITY FIELD HEARING, SACRAMENTO, CALIFORNIA JUNE 30, 1988 BY PATRICK RENICK, PROGRAM DIRECTOR, CALIFORNIA INDIAN COUNCIL ON AGING.

HONORABLE CHAIRMAN INOUYE, MY NAME IS PATRICK RENICK, PROGRAM DIRECTOR FOR THE CALIFORNIA INDIAN COUNCIL ON AGING. THE CICOA HAS BEEN IN EXISTANCE FOR OVER EIGHT YEARS, REPRESENTATIVES ARE FROM 42 TRIBES AND INDIAN ORGANIZATIONS IN CALIFORNIA. AS THE PROGRAM DIRECTOR OF CICOA, I AM HERE TO REQUEST FROM THE SENATE SELECT COMMITTEE TO INITIATE LEGISLATION TO ABOLISH THE PENDING IHS ELIGIBILITY REGULATIONS. THE CONGRESS HAS SIDE STEP THE CALIFORNIA LAND AND TRIBAL PROBLEMS SO LONG THAT THE CONCERNS AND ISSUES, BEST CAN BE TERMED "THUNDERSTRUCK". WITH THIS CICOA FURTHER REQUESTS SENATE SELECT COMMITTEE ON INDIAN AFFAIRS TO HOLD ADDITIONAL OVERSIGHT FIELD HEARING IN CALIFORNIA TO ADDRESS THE MANY UNRESOLVED CALIFORNIA INDIAN PROBLEMS.

CALIFORNIA INDIAN SENIOR CITIZENS ARE THE MOST UNDERSERVED, UNDERREPRESENTED GROUP OF INDIANS IN OUR STATE. MOST OF OUR INDIAN ELDERLY LIVE DAY TO DAY IN ALMOST UNBELIEVABLE SUB-STANDARD HOUSING, FAILING HEALTH, GEOGRAPHIC ISOLATION, SOCIAL AND OBJECT PROVERTY. THE MAJORITY OF OUR INDIAN ELDERLY DEPEND ON SUPPLEMENTAL SECURITY INCOME AS THEIR SOLE SOURCE OF SUPPORT. THE 1980 CENSUS INDICATE'S THAT 61% OF THE NATIONS INDIAN ELDERLY POPULATION EXISTS BELOW THE NATIONAL POVERTY LEVEL. BOTH THE SOCIAL AND ECONOMIC DATA DEMONSTRATES THAT OUR INDIAN ELDERLY COULD NOT AFFORD TO PAY FOR PRESCRIPTIONS THAT MEDI-CAL OR MEDI-AID WOULD NOT AUTHORIZE FOR PAYMENT.

MOST HEALTH SERVICE FOR INDIAN ELDERS ARE UNDER-UTILIZED BECAUSE OF LIMITED ACCESS (DUE TO LACK OF TRANSPORTATION, NO TELEPHONES, INFORMATION AND RESOURCES) LACK OF OUTREACH ON THE

PART OF MENTAL HEALTH PROVIDERS, LACK OF A SPECIALIZED FOCUS WITHIN THE INDIAN HEALTH SERVICE/CALIFORNIA AREA OFFICE DELIVERY SYSTEM ON GERONTOLOGICAL STUDY OR GERIATRIC HEALTH CARE, AND LACK OF DOCUMENTED INFORMATION WHERE THEY LIVE, HOUSING CONDITIONS, STATUS OF THEIR HEALTH CONDITIONS. THE FAILURE OF SERVICE PROVIDERS AND POLICY MAKERS TO DESIGN MENTAL HEALTH SERVICES APPROACHES WHICH ARE APPROPRIATE TO THE SOCIAL AND CULTURAL SETTING IN WHICH THE ELDERS HAVE NEED OF SERVICES.

SEVERAL OF THE TRIBAL CONTRACTORS PROVIDE EXCELLENT CARE OF THE INDIAN ELDERLY, WHILE SEVERAL DEVELOPING TRIBAL CONTRACTORS NEED TO DEVELOP SERVICE PROGRAMS. THE INDIAN HEALTH SERVICE/ CALIFORNIA AREA OFFICE DOES NOT HAVE ANY MASTER GERIATRIC HEALTH CARE PROGRAM.

IN CONCLUSION, MR. CHAIRMAN, THE CICOA IS AWARE THAT THE DAILY LIVING CIRCUMSTANCES OF INDIAN ELDERS POSE A CONTINUAL THREAT TO THE ABILITY OF INDIAN ELDERS TO MAINTAIN A HEALTHY OUTLOOK ON THEIR DAILY LIVES AND ON THEIR FUTURE.

I WILL QUOTE AN ARTICLE BY DOCTORS SPERO MANSON AND DONALD CALLOWAY, IN THEIR ARTICLE, "HEALTH AND AGING AMONG AMERICAN INDIANS".

GROWING OLDER PRESENTS GREAT DIFFICULTIES FOR A SIZABLESEGMENT PERHAPS 30% OF AMERICA AGED POPULATION. BEING INDIAN AND BEING OLD INTENSIFIES THESE DIFFICULTIES, BUT BEING AN INDIAN OVER THE AGE OF 75 AND LIVING IN A RURAL AREA MAY REPRESENT BEING A MEMBER OF THE MOST DISCRIMINATED SEGMENT OF THE AMERICAN SOCIETY UNQUOTE.

I WOULD HOPE MY COMMENTS WILL GIVE THE SUBCOMMITTEE SOME IDEAS FOR WAYS TO IMPROVE LEVEL OF CARE AND COMMUNICATIONS IN CALIFORNIA.

THE VAST COMPLEXITIES OF UNRESOLVED INDIAN ISSUES NECESSITATE'S FUTURE OVERSIGHT FIELD HEARING IN CALIFORNIA BY THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS.

THANK YOU, MR. CHAIRMAN FOR YOUR KIND ATTENTION, I WILL BE HAPPY TO ANSWER QUESTIONS AND PROVIDE ANY BACKGROUND INFORMATION YOU DESIRE.

JUNE 30, 1988
1213 ARNOLD STREET
SUSANVILLE, CALIFORNIA 96130

THE HONORABLE DANIEL K. INOUYE, CHAIRMAN
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
AND COMMITTEE MEMBERS

CHAIRMAN INOUYE, MEMBERS OF THE COMMITTEE, MY NAME IS MARVIN L. BENNER. I AM OF MAIDU, PIT RIVER AND HAT CREEK INDIAN DESCENT. I AM ONE OF NEARLY 700 OFF-RESERVATION AMERICAN INDIANS (ALSO REFERRED TO AS NATIVE AMERICANS) THROUGHOUT THE LASSEN, SHASTA AND PLUMAS COUNTIES IN CALIFORNIA WHO IS DEEPLY CONCERNED OVER THE ELIGIBILITY RULING WHICH INDIAN HEALTH SERVICE (IHS) WILL ENFORCE THIS SEPTEMBER 16, 1988. I WISH TO HAVE YOUR SUPPORT IN STOPPING ANY AND ALL IHS RULINGS OR REGULATIONS WHICH HAVE OR WILL HAVE ANYTHING TO DO WITH PLACING CONSTRAINTS ON THE NATIVE AMERICAN'S ELIGIBILITY FOR HEALTH SERVICES. PLEASE SUPPORT THE RIGHT FOR ALL NATIVE AMERICANS TO CONTINUE TO UTILIZE, TO THE MAXIMUM, ALL THE EXISTING HEALTH BENEFITS OUR U. S. CONGRESS (CONGRESS) HAD INTENDED FOR WE AMERICAN INDIANS!

PLEASE SUPPORT WE NATIVE AMERICANS WHO DESIRE MEMBERSHIP WITH A FEDERALLY RECOGNIZED RESERVATION OR RANCHERIA IN OUR AREA OR REGION OR THAT WHICH IS NEAREST TO US BUT WITH OUR FREEDOM OF CHOICE. AND IF ANY NATIVE AMERICAN IS NOT FEDERALLY RECOGNIZED BECAUSE THEIR TRIBE IS NOT FEDERALLY RECOGNIZED THEN PLEASE SUPPORT THEM IN BECOMING FEDERALLY RECOGNIZED. BUT IT IS IMPORTANT THAT ALL NATIVE AMERICANS HAVE THE IMMEDIATE RIGHT TO FULL HEALTH SERVICE BENEFITS INTENDED FOR THEM. PLEASE SUPPORT THE AMERICAN INDIAN'S NON-INDIAN SPOUSE IN THEIR UTILIZATION OF THESE SAME HEALTH BENEFITS. SOME OF THESE NON-INDIAN SPOUSES BORE INDIAN CHILDREN OR PERHAPS THEY ARE THE SOLE SUPPORT IN THE FAMILY

OR PERHAPS THEY PLAY BOTH ROLES. IT IS IMPORTANT TO NOTE THAT THE NEARLY 700 NATIVE AMERICANS OF THE LASSEN COUNTY SERVICE UNIT AREA IN NORTHEASTERN CA IS CONTRASTED BY 98 WHO REPRESENT THE SUSANVILLE INDIAN RANCHERIA HERE IN LASSEN COUNTY. WE OFF-RESERVATION NATIVE AMERICANS REPRESENT NEAR 86% OF THIS SERVICE UNIT AREA. WE NEED IHS BENEFITS AND THEY NEED US TO SUPPORT THEIR EXISTENCE HERE.

IN SEPTEMBER IHS INTENDS TO DISPLAY THEIR POWERFUL AUTHORITY BY DENYING WE NATIVE AMERICANS ANY HEALTH BENEFITS SIMPLY ON THE BASIS THAT THE BIA WILL NOT RECOGNIZE TRIBELESS INDIANS, THUS IHS WILL NOT SEE US AS A CERTIFIED TRIBE OR CERTIFIED AS ENROLLED AS A MEMBER OF A FEDERALLY RECOGNIZED RESERVATION OR RANCHERIA. THE BUREAU OF INDIAN AFFAIRS (BIA) IS THE ONLY FEREAL AGENCY THAT I KNOW OF WHO CAN LABEL A NATIVE AMERICAN AS BEING CERTIFIED OR NOT. IN THE PAST I WENT ALONG WITH THIS TYPE OF LABELING BECAUSE IT WAS EASY ENOUGH TO PROVE THAT I WAS INDEED AN AMERICAN INDIAN; HOWEVER, I HAVE RECENTLY LEARNED THAT I WILL SOON BECOME AN UNCERTIFIED INDIAN BECAUSE I'M NOT ENROLLED AS A MEMBER OF A CERTIFIED FEDERALLY RECOGNIZED NATIVE AMERICAN RESERVATION OR RANCHERIA. I HAVE TRIED, AS WELL AS MANY OTHER NATIVE AMERICANS, TO ENROLL AS A MEMBER OF OUR LOCAL SUSANVILLE INDIAN RANCHERIA BUT A CERTAIN FAMILY AND THEIR FRIENDS ARE PART OF THAT RANCHERIA MEMBERSHIP WHICH NUMBERS 98 INDIANS WHO DON'T WANT ME OR MY CHILDREN OR FELLOW NATIVE AMERICANS AS MEMBERS OF THEIR RANCHERIA.

IHS ACCEPTS THE BIA POLICY ON DETERMINING NATIVE AMERICAN CERTIFICATION. IF BIA SAYS WE ARE ACCEPTED CERTIFIED INDIANS, THEN IHS WILL AGREE THAT WE ARE CERTIFIED! IT HAS OCCURRED TO ME THAT THE UNCERTIFIED INDIANS WILL BE CAUGHT BETWEEN A ROCK-AND-A-HARD-PLACE. ON ONE HAND BIA WILL SOON ADOPT A SIMILAR POLICY WHICH WILL PREVENT ANY UNCERTIFIED INDIAN FROM RECEIVING ANY EDUCATIONAL ASSISTANCE; AND, IHS WON'T ALLOW HEALTH BENEFITS FOR THE SAME UNCERTIFIED

INDIANS.

I SUBMIT TO THIS COMMITTEE THAT BOTH IHS AND THE BIA ARE VERY POWERFUL AUTHORITIVE AGENCIES WITH THE ALARMING POTENTIAL FOR DESTRUCTION OF NATIVE AMERICAN ELIGIBILITY FOR IHS AND BIA SERVICES AS CANCER IS TO THE HUMAN BODY. THIS IHS ELIGIBILITY RULING IS A DREADFUL SYMTOM THAT TELLS ME THAT IHS, FOR THEIR PART, WILL TELL WE NATIVE AMERICANS WHO ARE INDIANS AND WHO ARE NOT INDIANS. THEY WILL IN EFFECT BE PLACING THEMSELVES IN LIEU OF OUR NATIVE AMERICAN PARENTS AND THEIR ANCESTORS WHEN IT COMES TO DETERMINING IF WE ARE NATIVE AMERICANS OR NOT. IN ALL FAIRNESS IT SHOULD BE NOTED THAT IHS HAS PROVIDED GOOD INDIAN HEALTH SERVICES THUS FAR. I HAVE SEEN BOTH ON AND OFF-RESERVATION INDIANS UTILIZE WHAT I NOW CONSIDER A SATISFACTORY HEALTH SERVICE; AND I ACKNOWLEDGE THE CONGRESSIONAL SUPPORT FOR THEIR PASSING THOSE LAWS THAT WERE INTENDED FOR THE GOOD OF THE NATIVE AMERICANS.

WHERE CAN A NATIVE AMERICAN TAKE THEIR LEGITIMATE COMPLAINTS TO IN REGARDS TO DENIED OR IMPROPER SERVICES BY THE IHS AFTER FAILURE TO RECEIVE A FAIR AND JUST RESPONSE FROM IHS? THE SAME CONCERN APPLIES TO THE BIA IF THEY WERE IN QUESTION. I'M SURE THAT EITHER IHS OR BIA COULD TALK CIRCLES AROUND ME WHEN IT CAME TO DISCUSSING THEIR REGULATIONS! ONE MAIN REASON I SEE A NEED FOR THIS OVERSIGHT HEARING TAKING PLACE IS THE FACT THAT WE NATIVE AMERICANS ARE NO MATCH TO STAND UP AGAINST EITHER THE IHS OR THE BIA ALONE.

CHAIRMAN, INOUYE, AND COMMITTEE MEMBERS, EACH AND EVERY ONE OF US AMERICAN INDIANS NEED YOUR SUPPORT BY INSURING US OF RECEIVING ALL HEALTH BENEFITS THE CONGRESS INTENDED FOR US TO HAVE. PLEASE SUPPORT ANY MEASURE THAT WILL AID ALL INDIANS IN THEIR DAILY LIVING AND AT THE SAME TIME KEEP THEM UNITED AS AMERICAN INDIANS WITH A SOLE CAUSE FOR A GOOD UNITED FUTURE FOR THE NEXT GENERATION OF

NATIVE AMERICANS.

I SINCERELY THANK YOU FOR TAKING THE TIME TO READ THIS TESTIMONY. I AM THANKFUL FOR YOUR DECISION TO HOLD THESE HEARINGS HERE IN SACRAMENTO AND GIVING ME A CHANCE PERHAPS TO GIVE AN ORAL TESTIMONY. IF THERE IS NO TIME FOR MY REQUESTED ORAL STATEMENT I SHALL REMAIN GREATFUL THAT I INDEED HAD A CHANCE. YOU SEE, CHAIRMAN, INOUYE, I UNDERSTAND THAT YOU STATED THAT IT'S TIME FOR NATIVE AMERICANS TO GET INVOLVED IN POLITICS TO HELP THEIR NEEDS AND TO BE HEARD. YOU ASKED WHERE ARE ALL SMART INDIANS HAVE GONE TO. I DON'T HAVE ANY ANSWERS TO THOSE QUESTIONS. FOR WHAT IT'S WORTH, HERE I AM FOR BETTER OR WORSE; THIS IS MY FIRST ATTEMPT AT POLITICS.

THANK YOU FOR YOUR VALUABLE TIME.

SINCERELY,

Marvin L. Benner

MARVIN L. BENNER

To: The United States Senate Select Committee Hearing convened June 30, 1988 at Sacramento, CA and all present.

Whereas, the Senate Select Committee has convened this hearing to discussions of five minutes per person for or against the proposed Indian Health Service Eligibility rule, and

Whereas there has been a proposed change by the Senate Select Committee to exempt the indians of California from the proposed bill before passage, and

Whereas that proposed change is dependant of other health care eventually being available to those indians not currently enrolled members of federally recognized tribes or members of such households, and

Whereas the proposed bill does not address federal recognition availability to those tribes of indians not federally recognized of California nor jurisdiction over those facilities carefully ignored by this bill that may belong to that select group of "Indian of California" authorized to file suit in the United States Court of Claims, and

Whereas the current Federally Recognized Tribes in California are denied access to file claims in the U.S. Court of Claims, and

Whereas the California Constitution until 1950 denied California indians access to citizenship by its very wording, and

Whereas Congress is empowered by the U.S. Constitution to regulate commerce and trade with foreign nations and indian tribes specifically pointing out that congressional proportional representation shall not include those untaxed indians by the U.S. Constitution's very wording, and

Whereas the U.S. Supreme Court and U.S. District Courts throughout history have confirmed the Fuduciary trust responsibility of the United States of America for the tribal government development of the indians in their favor, and

Whereas, the denial of health services to 200,000 indians and their respective members of indian households would be genocide to and obstruct the slow but continous positive self determination of the tribal governments the indians of California both federally recognized and not federally recognized, and

Whereas overall the effective destruction of tribal government would occur by tranferance of that Fuduciary Trust responsibility for those 200,000 indians and their members of indian households to the State of California from indian health services currently servicing them on behalf of the federally recognized tribes in California, and

Whereas tribal government has been diminished and obstructed by the current unauthorized activities by the Bureau of Indian Affairs budget policy in California to exclude unenrolled indian members of federally recognized tribes and other non federally recognized indians of California access to services by the Bureau of Indian Affairs such as preservation of their indian burial grounds, sacred places, allotment land trust restorations, higher education, tribal gathering places and access to federal recognition both through Indian Reorganization Act qualified and aboriginal petition, and

Whereas the 1928 U.S. Court of Claims lawsuit on behalf of the indians of California guaranteed these basic needs to the indian tribes of California so they may forevermore enjoy themselves as indians, and

Whereas tribal government has already been illegally damaged because contractual services for the indians of California have been deleted not turned over to the federally recognized tribes as promised by Public Law 93-638, and

Whereas the thriftiness of the government is not served best by the genocide of humans as would the development of government to government relationships with the tribes of indians of California, and

Whereas population services dollar per person for preventative and direct health care have never been nor will ever be surpassed by other statistics for the California indian health care by any other state or federal program ever, and

Whereas the dollar per person factor theoretically could be zero and indian health mortidity and mortality positive figures could be super improved by the introduction of traditional indian family sport participation lotteries along with the continuous positive extended family growth stimulated and preserved in the honorable fashion by tribal affiliation, and

Whereas the alternatives shown to be evident in California are the ever spreading development of street gangs such as depicted by the movie, "Colors", and

Whereas the indians of California are now pursuing federal recognition and uncovering those agencies such as the Bureau of Indian Affairs in California who seek to terminate the development of tribal government for all the indians of California, and

Whereas the fact that this hearing is being held shows the policy of the United States may be changing from termination of the American indian to recognition of the positive benefits for the American People and American indians by the U.S. Congress, supporting the preservation of indian tribes by providing access to federal recognition and tribal development through self determination and so now, therefore I support those here in attendance traveling far to state their opposition to the proposed indian health services eligibility rule and join them in prayer that the Senate Select Committee will have the wisdom to make the right decisions about this very important bill.

April 16, 1988

Whereas, I am a lineal descendant of Nellie Towndolly, a person named on the Plan for Distribution of the assets Redding Rancheria and,

Whereas the Tillie Hardwick court decision upheld my right to enjoy myself as an Indian forevermore and,

Whereas the General Council of the Redding Rancheria convened June 15, 1985 at Redding, California close to exclude some People named on the Plan for Distribution and their lineal descendants from membership in the Redding Rancheria Tribe and

Whereas I now have the right to organize, elect tribal government charter and Petition the U.S. Department of Interior for a reservation to enjoy myself as an Indian according to the Indian Reorganization Act of 1934 and,

Whereas the charter for Tribal Government would allow those other persons excluded but named upon the Plan for Distribution and their lineal descendants and other Wintu Indians and,

Whereas I have authorized John R. Hayward of 2228 Rdg. Rancheria Road to help develope, solicit funding, get and receive,record and administrate legal help to promote my best interests in this matter and so now,

Therefore I approve and support this document by my signature.

Tim Wilson
Tim Wilson

April 16 1988

John R. Hayward
April 16-88

Whereas I am eligible under Sections 16, 17 and 19 of Indian Reorganization Act of 1934 to enjoy myself as an Indian, and

Whereas I am a lineal descendant of John Calvin Sisk, a Wintu of Redding given an allotment in severality for the Wintu Indians of Redding in 1898, and

Whereas I have authorized John R. Hayward of 2228 Redding Rancheria Road, Redding, CA, to take and procure funding and legal help to complete the organization of myself and others under the I.R.A. Act of 1934, and

Whereas the charter I would present would accept other Wintu Indians as members and so now I therefore, by my signature, approve and support this document.

Elizabeth L Sisk

Whereas, I am eligible under 16, 17 and 19 of the Indian Reorganization Act of 1934, to organize for my benefit, and

Whereas I am a lineal descendant of a person named upon the Redding Wintu Indian Severality Allotment Schedule dated 1898, and

Whereas I authorize John R. Hayward to coordinate my reorganization under the I.R.A. Act by solicitation of funding and legal help as he feels necessary, and

Whereas any charter I would approve would accept other Wintu indians as tribal members and go now, therefore I approve and support this document by my signature.

Melba Garcia

Witness
Received

John R Hayward

United States Land Office,

Redding California

March 24, 1892

To whom it may concern

This is to certify that I have made the following allotments, to wit:

No 288. Doctor Jim E½ NE¼ Sec 10 } T33N R5W, MDM
289 Polly Jim W½ NE " 10 }

M Piggott, Allotting Agent

Refer in reply to the following:

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

~~Washington,~~ Roseburg Oregon May 16, 1892

Mike Reid, Ind.
Redding, Cal.

Friend Reid:

I am pleased to inform you that the Hon Commissioner of Indian Affairs has favorably considered my recommendation to pay you for your services in making allotments to the Winter Indians at Redding and has requested me to send him an estimate of what should be allowed you. I have estimated your time at 2½ weeks at $10 per week making $25. and no doubt satisfied you will be allowed that sum which will enable you to get a start on your farm.

I hope you and family are in good health and are safely located in your new home. Do not tell the other Indians that you are to be paid as they would feel jealous of you. Yours

make your home comfortable, Do not use whisky and send your children to school, When you get your money the first thing you do is to buy a young cow and [illegible] young [illegible] from them you will have your farm stocked in a few [illegible], buy a wagon and harness a plow and a few tools then you will have some thing to work with. and can earn money by cutting and hauling your wood to town. You must not go in debt for anything; and pay that $20 which you said you owed for [illegible] When you get your stock feed them well and have a [illegible] it will pay [illegible] Keep away from whisky, dont forget that.

Your Friend
M. Piggott

It may be 6 weeks before you hear from the money.

United States Land Office,

Redding, California

March 18, 1892

To Whom it May Concern

This is to Certify that I have made the following allotments, to wit:

No 228 - Tillie Walker S½ NW¼ Sec 2
229 - Becka Walker S½ NW¼, S½ NE¼ Sec 2
230 - Thomas Walker SE¼ Sec 2
231 - Wm Lucket N½ NW¼ Sec 2
} T33 N, R 4 W, MDM

M. Piggott, Allotting Agent

32 A—7 N
Refer in reply to the following:

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington, ..., 18....

Sec 2 { Lot 2. NW¼ NE¼ Peter Cusick

Sec 4, 6, 8, 10, and 12, vacant—

Sec 14 { S½ NE¼, E½ SE¼ F. T. Tucker

Sec 18, 20, 22, 24, 26, 28, 30, 32, and 34, Vacant—

United States Land Office,

Redding, California,
March 18, 1892

To Whom it May Concern
This is to certify that I have made the following allotment, to wit:
No 333 John Smith, Lake Tope.
N½ NW¼ of Sec 5. T33.N; R3W, M Dm.

M. Piggott. Allotting Agent.

33A – 6M

Refer in reply to the following:

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington, ..., 18....

This Township is generally mineral Sec 2 and 4 vacant

Sec 6 { Mineral Lots # 37 and 40 Ed Reily Edith Reily & Geo Bliss

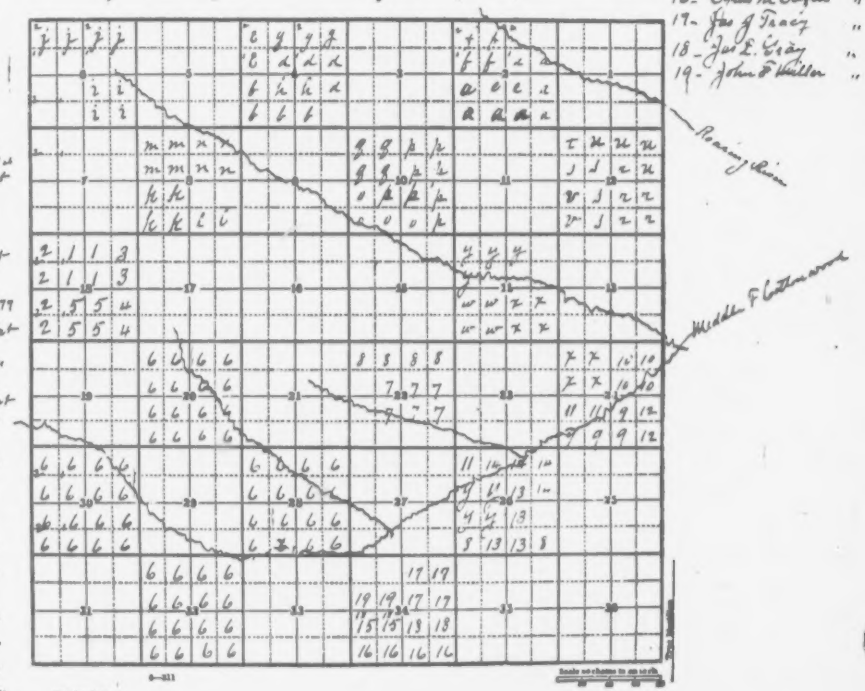
Sec 8, 10, 11, 12, 14, 18, 20, 22, 24, 26, 28, 30, and 32, vacant

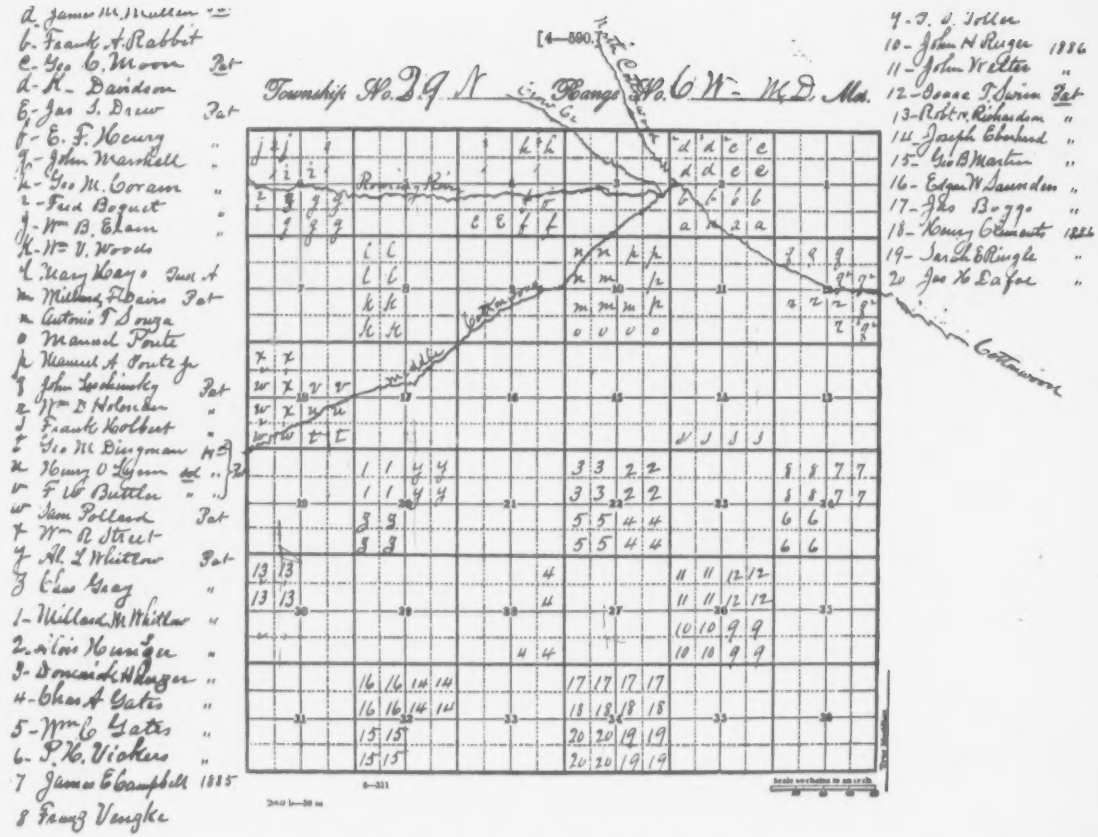
Sec 34 { S½ NE
SE¼ NW¼
SE¼
E½ SW¼ State School land

[4—590.]

Township No. 29 N Range No. 7 W Mds.

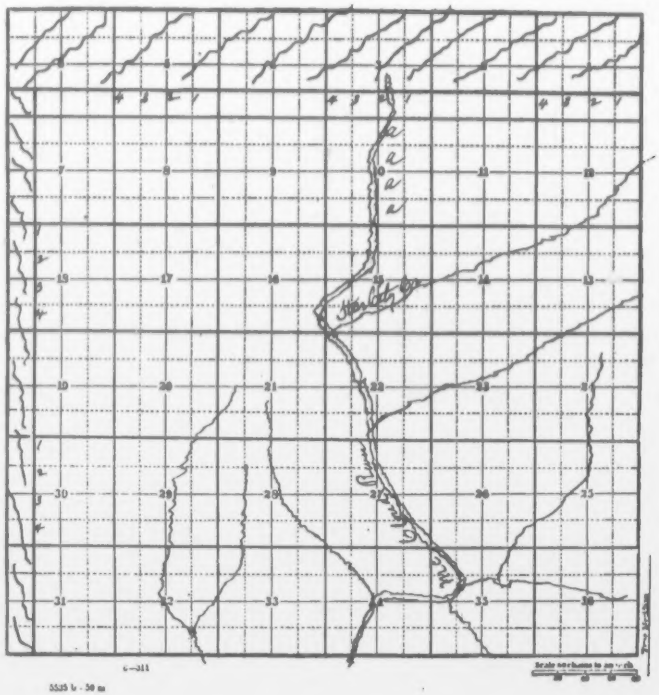
a - [illegible] 1878
b - Andrew Smith 1878
c - Geo A. Tyler Pat
d - John Wilder "
e - Wm G. Nicholson "
f - Bartlet Shaw "
g - Geo W Davidson
h - Wm McCormick "
i - Frank B Robinson
j - E Bassett
k - State University
l - John Smith 1882
m - Andrew J Melloop Pat
n - Robert Houghton
o - Robt Aiken
p - Wm L Long Pat
q - Charles Boyd
r - Fred Glasser 1879
s - Chas Stevens Pat
t - G Fletcher
u - Ed Markwick "
v - J K Grimmer
w - G G Kimball Pat
x - H. W. Stewart "
y - James Pearson "
z - John J Morton "
1 - John W Tyler "
2 - Geo. E. Peck "
3 - R A Graves "
4 - M. B. Grego "
5 - Robert Kerrin "
6 - Thomas Dillon "
7 - Wm T Mahoney "
8 - Godfred Kuhn "
9 - Allen Schuman "
10 - J W Thompson "
11 - [illegible] "
12 - Thomas J Wheeler "
13 - James Kell Pat
14 - Richard H Wells "
15 - Allen Carter "
16 - Cornelius Gifton "
17 - Geo J Tracy "
18 - Jas E. Gray "
19 - John F Miller "




[4—590.]
Township No. 29 N Range No. 6 W. M.D. Mer.
Cottonwood
Middle Cottonwood
Cottonwood
a. James M. Mullen
b. Frank A. Rabbit
c. Geo C. Moon Pat
d. K. Davidson
e. Jas S. Drew Pat
f. E. F. Henry "
g. John Marshall "
h. Geo M. Coram "
i. Fred Boquet "
j. Wm B. Elam "
k. Wm V. Woods
l. Mary Hays Ind A
m. Millard F. Davis Pat
n. Antonio F. Souza
o. Manuel Ponte
p. Manuel A. Ponte Jr
q. John Leschinsky Pat
r. Wm D. Holman "
s. Frank Holbert "
t. Geo M. Dingman Hd
u. Henry O. Lyon Ind "
v. F. W. Buttler "
w. Sam Pollard Pat
x. Wm R. Street
y. Al. L. Whitlow Pat
z. Chas Gray "
1. Millard M. Whitlow "
2. Alois Hunger "
3. Dominick Hunger "
4. Chas A. Gates "
5. Wm C. Gates "
6. P. H. Vickers "
7. James E. Campbell 1885
8. Franz Vengke
9. T. J. Toller
10. John H. Ruger 1886
11. John Welter "
12. Isaac T. Swim Pat
13. Robt H. Richardson "
14. Joseph Eberhard "
15. Geo B. Martin "
16. Edgar W. Saunders "
17. Jas Boggs "
18. Henry Clements 1886
19. Sarah E. Ringle "
20. Jas H. Dafoe "

[4—590.]

Township No. 38 N Range No. 2W Mer. a Dan M Cowley



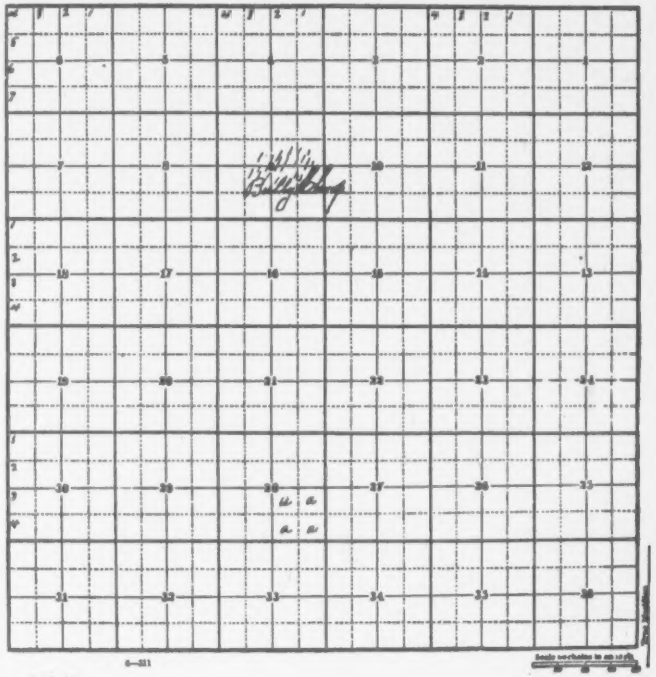
6—311

5535 b - 50 m

a_John A Finch 28, Sep 22/96

[4—890.]

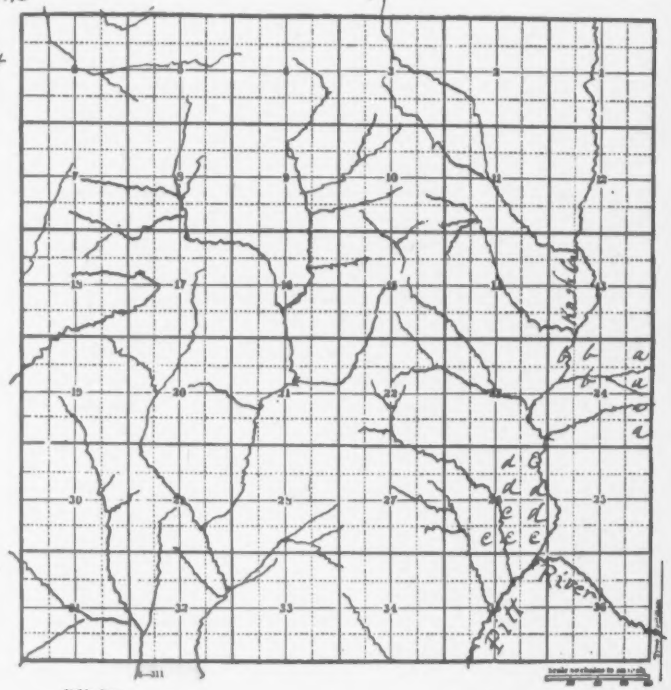
Township No. 31 N Range No. 8 W, W.D.M. Mo.



a. Albert Vasser
b. Chil Smeults
c. Jim Wright Ind Al
d. B A Anderson
E. A J Kash Pat

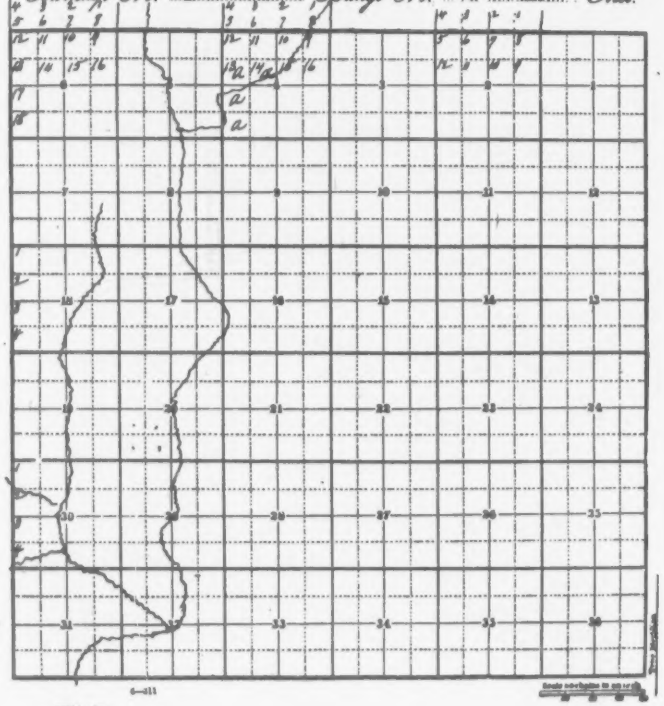
[4—590.]

Township No. 37 N Range No. 1 W Mer.



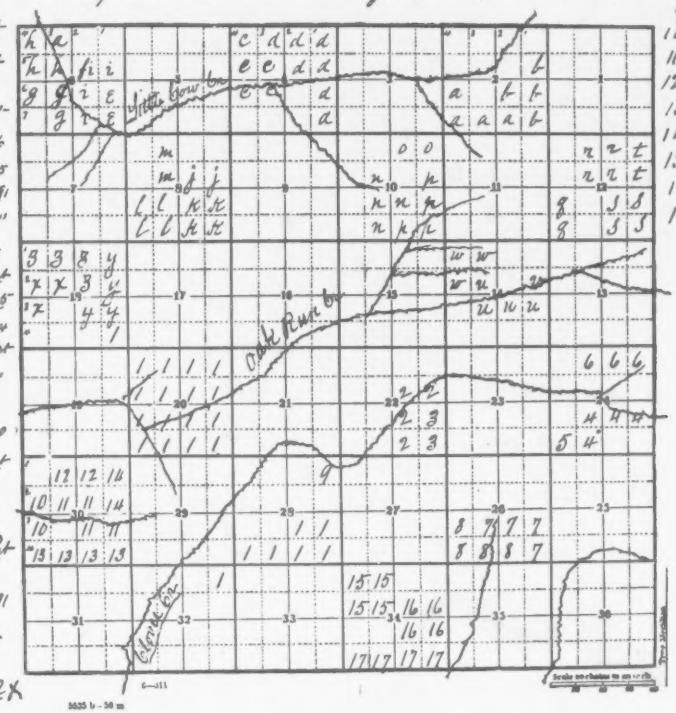
a_ Kellum Powell h 16

Township No. 35 N Range No. 2 W Mer.



[4—590.]

Township No. 33 N Range No. 1 W Mer.



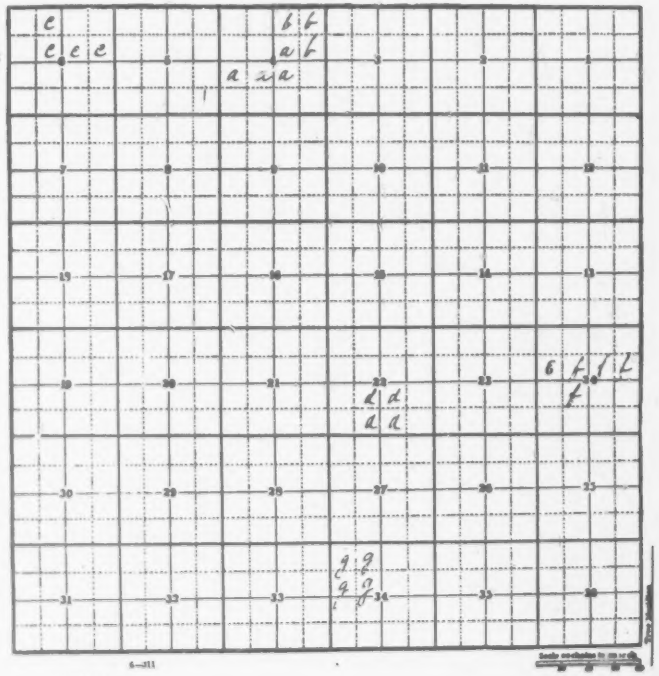
a - J F McComber Pat
b John Campbell "
c L Eilers "
d J F McWorthy f 91
e J. C. Scott Pat
f " " " Cancelled
g Ben T. Bibbins
h Doe T Scoggins Pat
i Rachel C Eilers f 86
j Frank Kenyon " 75
k Herman Eppinger f 91
l Jacob " " "
m Cancelled x
n Wm B Cadwell Pat
o Geo Phillips f 85
p Paul Liedelt " 84
q A. W. Alberton Pat
r G. A. Ahlstadt "
s John A Seitz
t A Coffman f 90
u R F Poindexter Pat
v John Q Maxwell
w John Creem
x Aaron Tender Pat
y Jas D May "
z O. C. Schulze f 91
1 Coal f. refused x
2 Geo A Billings
3 Mary Hubbard C x
4 Wm H Kennedy
5 A E Hoffman

6 - Nina Dicker f 88
7 - John H Welch f. p.
8 - John P Parry Hd 85
9 - Paul Bladget
10 - Wm Ore Pat
11 - O. E. Baker "
12 - John H Dans f 90
13 - C O Strayer
14 - P C Hardin f 77
15 - John K Mears Pat
16 John Haykal
17 Wm C Whitmore f 91

[4—590.]

Township No. 28 N. Range No. 1 W. Mer.

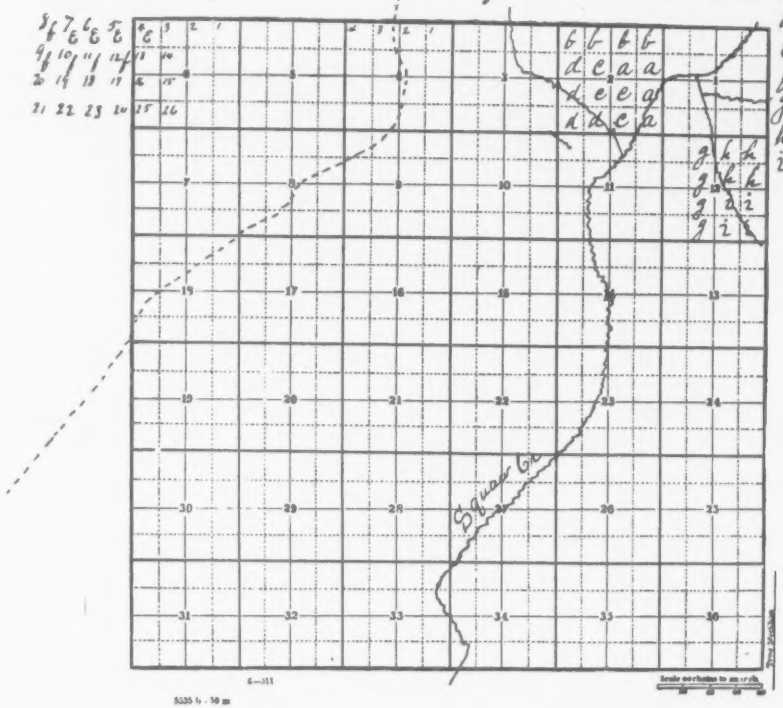
a – Dave L Dodge Pat
b – C F Elliott
c – Joshua Reed Pat
d – P Cronin f. 77. Ex.
e – Jas J Freeman Pat
f – Ben F Chase f. 1885. Ex.
g – C C Langdon f. 79. Ex



6—311

[4—590.]

Township No. 38 N Range No. 3 W Mer.



a - L. H. Snell Hd 90
b - O. R. Trammell Pat
c - T. W. Huckstep T.a. 90
d - T. A. McMahon " "
e - Thomas Boyson Pat
f - C. H. Milner "
g - Zoa Price " 91
h - Wm J. Price " "
i - Bessie S. Fowler " "

27 N—1 W

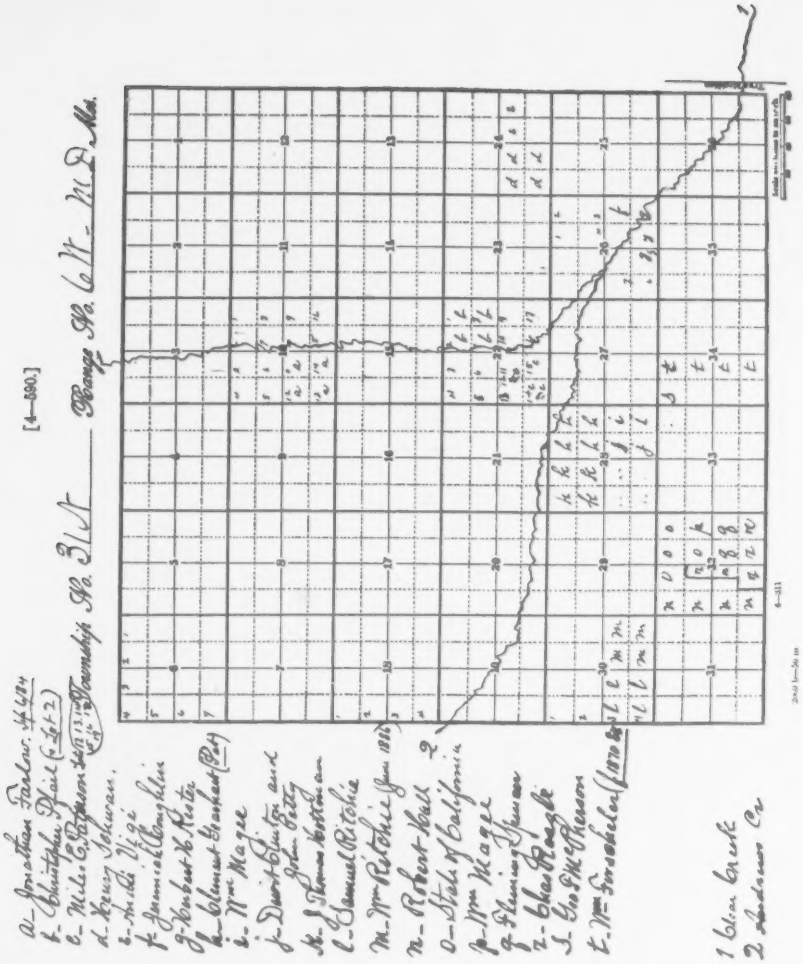
Refer in reply to the following:

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington, ..., 18.....

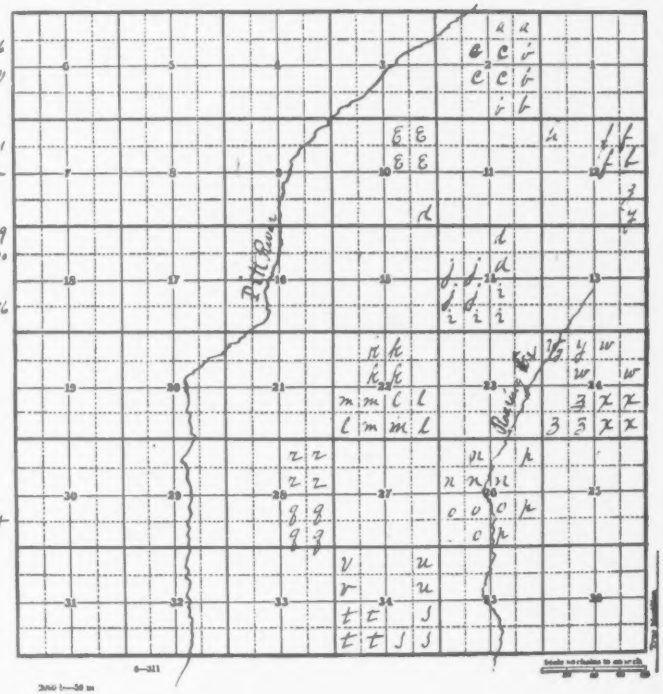
This Township all vacant excepting Lots 6 & 7 of Sec 6.
on which Charles Brown filed Soldiers homestead Dec 1/77


[4—590.]
Township No. 31 N
Range No. 6 W - M D Mer.
a- Jonathan Farlow. 4/4/84
b- Christopher Pfeil (Lot 2)
c- Miles C. Patterson
d- Henry Schwan.
e- Andrew Vigé
f- Jeremiah Coughlin
g- Herbert H. Kester
h- Clement Garbert (Pat)
i- Wm Magee
j- Dwight Clinton and John Petty
k- J Thomas Hottman
l- Samuel Ritchie
m- Wm Ritchie (Jan 1886)
n- Robert Hall
o- State of California
p- Wm Magee
q- Fleming Spencer
r- Chas Roegle
s- Geo F McPherson
t- Wm Forschelen (1870 Sept)
1 Clear Creek
2 Andrews Cr
4—311

[4—590.]

Township No. 36 N Range No. 1 W M.D. Mer.

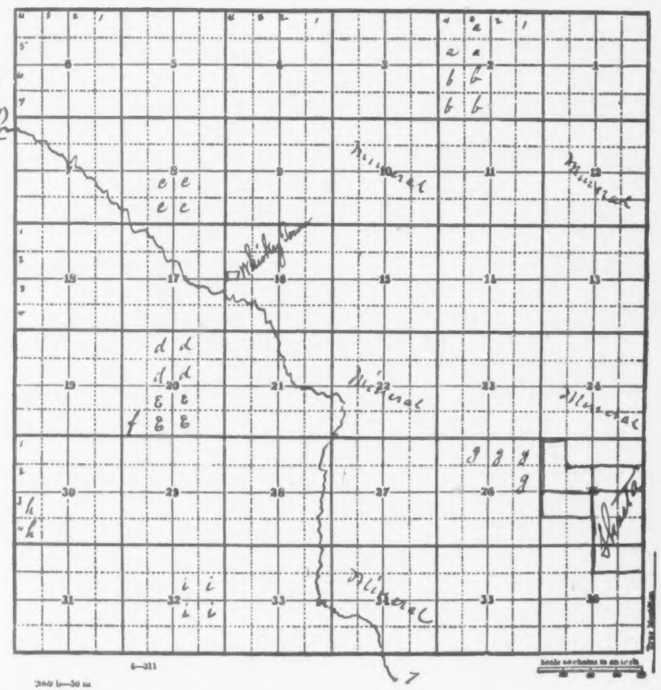
a-Jas H Weir
b-Wm Halsey Ind. Al
c-Henry Thomson " "
d-Martin V Loy Pat
e-Mike Ind Al
f-John Watts
g-Geo O. English 1886
h-A H Zetzsche 1891
i-Ruth Chambers
j-John W Lutz 1891
k-Thomas Murphy Pat
l-Catherine " "
m-Wm T Blood 1889
n-B. W Hall 1890
o-Thomas L Bass "
p-A. J. McCoy 1886
q-W. H. Blood
r-Elias Hughes
s-Herman Plactke
t-Gus A Roemer
u-F. C. Jordan
v-W. A. Brooks
w-Geo H Chambers
x-Wm Chambers Pat
y-Thomas Patterson
z-Dudley M Stone



[4—590.]

Township No. 32 N Range No. 6 W – M D Mer.

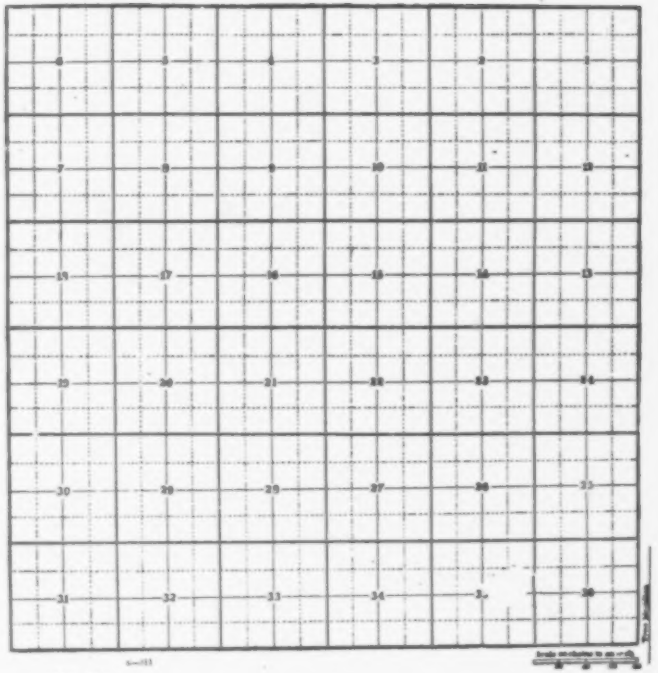
a – A M Ellsworth
b – Wm Jackson
c – Mary E Harrington
d – Jasper E Smith
e – James Humphrey
f – John Fleming
g – John Kensella (July 78)
h – John Fleming (Jany 79)
i – Melinda J Paige



1 Clear Cr

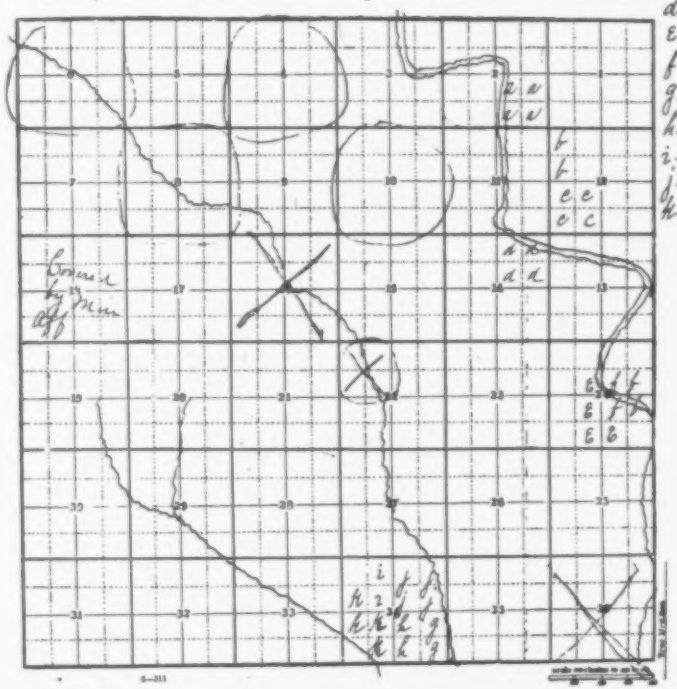
[4—890.]
all vacant

Township No. 37 N Range No. 2 W Mer.



[4—590.]

Township No. 34N Range No. 5W Mer.



a – August Bergfield f 80 ex
b – Waldo Elmore Pat
c – Thomas Johnson
d – L B Whitaker f 83 ex
e – Sam Lockhart fp/90
f – Levi B Carpenter H/90
g – Jas S. Smithson H/87
h – John A Gregg 5E. Pat
i – Jas R Holt " "
j – Hans Watson H/90
k – Mary E Gregg 5E. Pat

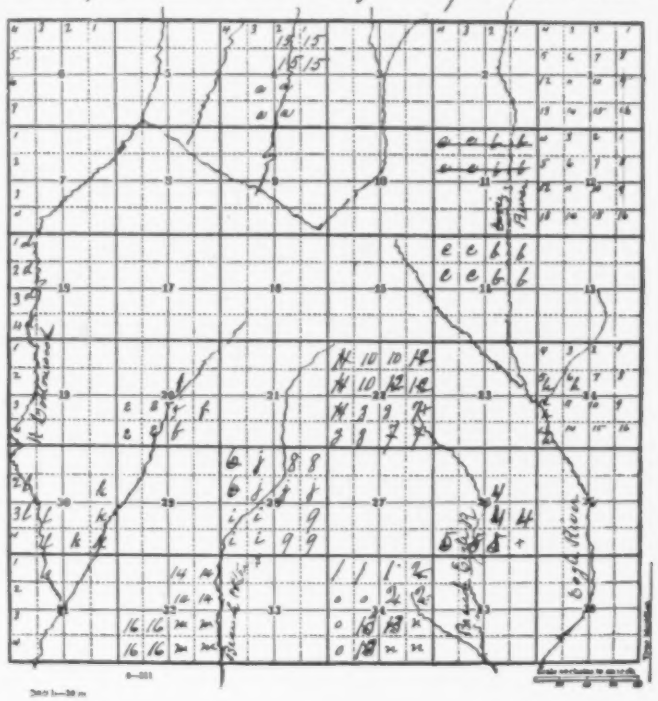
16 Angeline Dixon Ind

[4—590.]

Township No. 31 N Range No. 7 W M D M Mo.

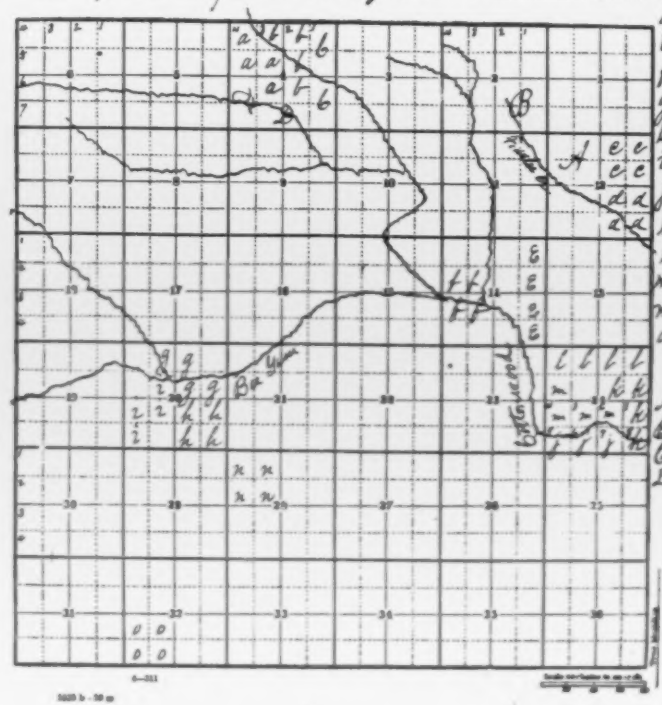
a – Frank Woodes Ass.
b – Joseph C Field (expired) 14.
c – Chas T Burns 14.
d – Simon Shomaker 18.
e – Warren C Forrester 20.
f – Ordish F Blakesley 20
g – Sarah Alberg 22
h – L H Barber 24.
i – Wash Fan Ind 28.
j – Prince T Baker 28.
k – Geo C Voss 30.
l – John M Post 30.
m – Michael Driscoll 32
n – Chas A Wright 34
o – Andrew Erickson 34

1 John Watson Ind
2 Laura " "
3 Dick Watson "
4 Rosie Raines "
5 Jas Raines "
6 Sarah Fan "
7 Julia Raines "
8 Tilda Fan "
9 Lillie " "
10 Frank U Fan "
11 Ida " "
12 Martin " "
13 Annie Wallace "
14 Eliza Fratis "
15 Anton W " "



[4—590.]

Township No. 29 N Range No. 8 W Mer.



a- Wm Park
b- E. D. Coleman
c- Rufus A Fellows Pat
d- Geo R Raymond "
e- Geo W Raymond
f- Emeline Yancey 85 ex
g- Jos M Montgomery
h- Jas H Cathey
i- Chas Bauder
j- Joseph Diehl ex
k- Wm C Nicholson
l- F M Millsap
m- Wm Fortell ex
n- Thomas A Cathey
o- Wm Badden

A- Maggie Wallace Sec
B- Andrew Wallace "
C- Sam Knowlton "
D- Mary Knowlton "

33 N — 7 W

Refer in reply to the following:

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington, ... 18

Sec 2 { Lots 1 and 2, and S½ NE¼, Irena Verzeme H.E. May 18, 91.
W½ SE¼, E½ SW¼, Phillip Schnetzer H.E. Aug 10/91

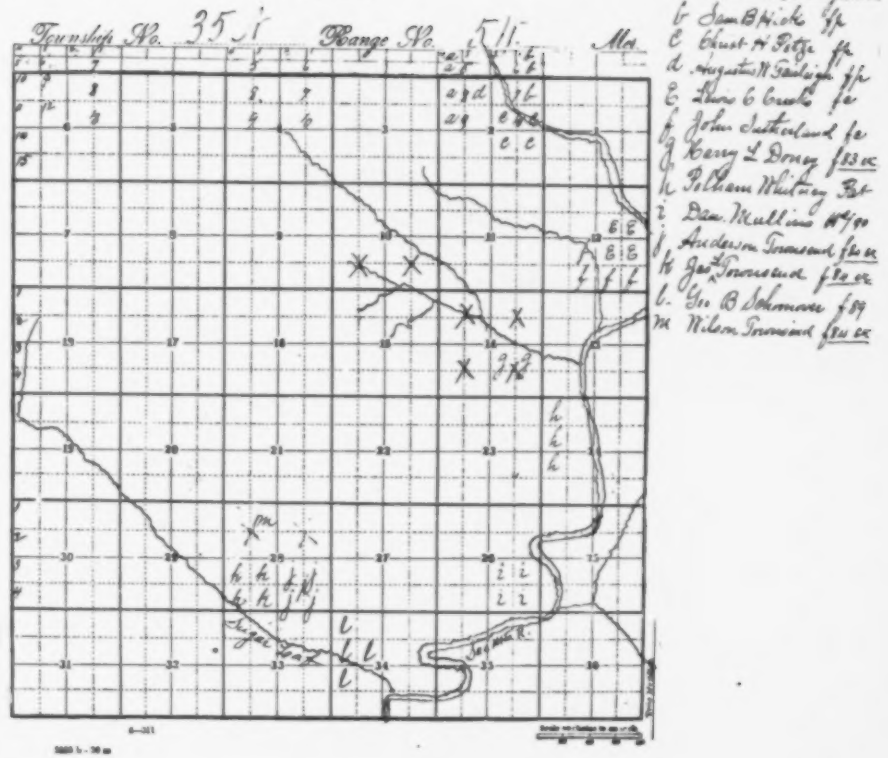
Sec 6 { Lots 4 & 5, SE¼ NW¼, SW¼ NE¼ Robt E Hanby, Pat

Sec 8 { Lot 44 and 61, SW¼ of NW¼ of SW¼ Niagra Mill & Mining Co.

Sec 34 { Lot 38 Camden and Chitwood.

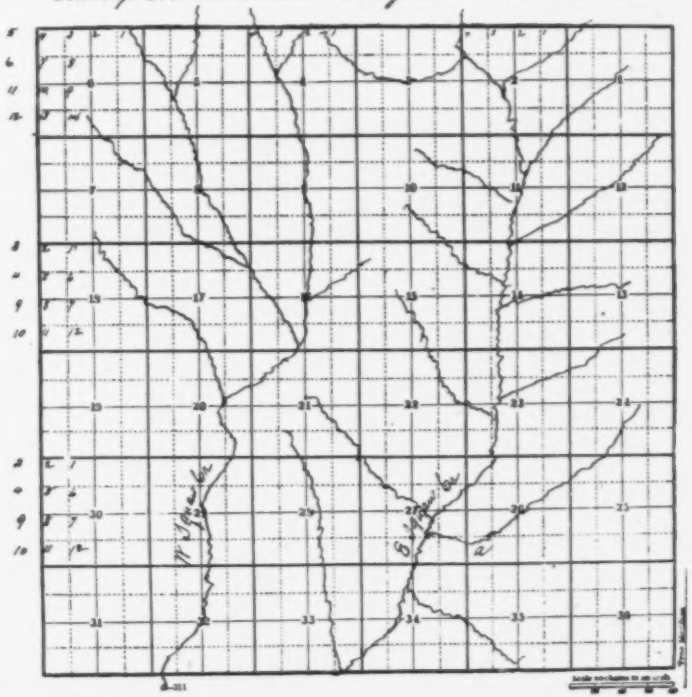
Sec 4, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, and 32, vacant

[4—590.]

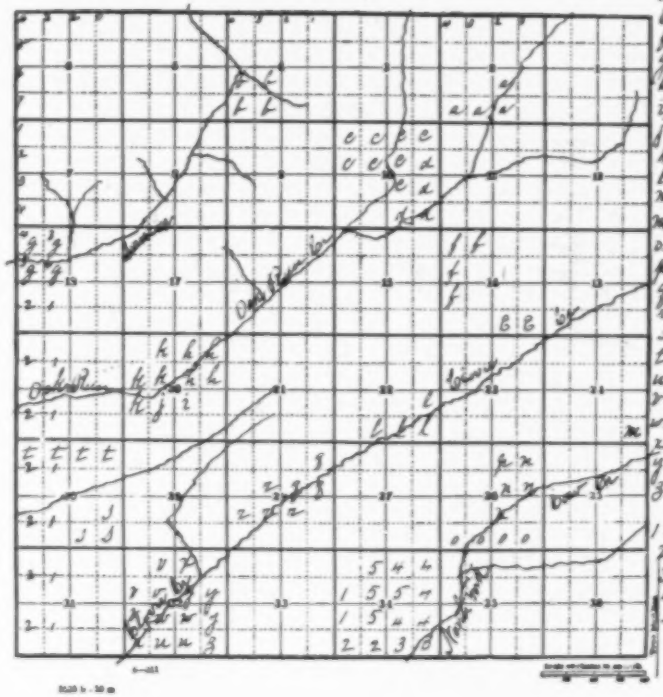

Township No. 35 N
Range No. 5 W.
Mer.
a Gilbert W Fairleigh Pat.
b Sam B Hicks fp
c Christ H Petze fp
d Augustus W Fairleigh fp
e Lewis C Crooks fa
f John Sutherland fa
g Harry L Doney f 83 ex
h Pelham Whitney Pat
i Dan. Mullins Hd/90
j Anderson Townsend f 80 ex
k Geo L Townsend f 84 ex
l Geo B Schomover f 89
m Wilson Townsend f 84 ex
Sugar Loaf
Sag Mill R.

[4—500.]

Township No. 36N Range No. 2W Mer. a John S Miles /33 ac



Township No. 32 N Range No. 2 W Mer.



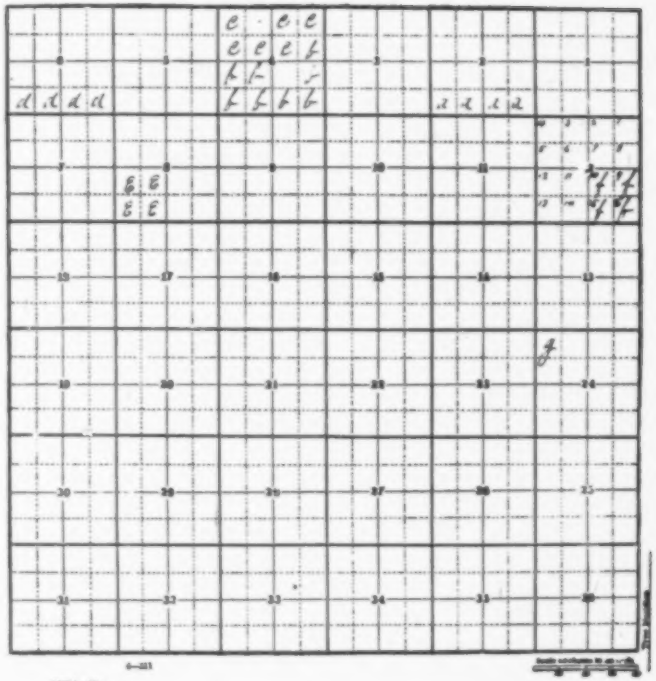
b- J M Stoney Hd 189
c- H N Wilkinson Pat
d- M Dewsonne "
e- A Flansburgh C.E.
f- Frank Barber f 88 ac
g- John Silver C.E.
h- J B Hunt Pat
i- John Hart "
j- E L Oliver "
k- A J Wilmot "
l- Peter Fisher "
m- P B Longlois "
n- W A Smith fc 90
o- Wm Boyes
p- Robt Boyes f 76 ac
q- Frank Kuntz Pat
r- John T Stough
s- F Vorderman Pat
t- C W Pawley Hd
u- C R Herzford Pat
v- Jas M Porter "
w- S Eastman "
x- O P Woodward "
y- C Watkins "
z- State School "

1- Sarah J Martin "
2- Frank Joseph "
3- H P Ross "
4- T J Webb "
5- John Senter fp

a – Ed. Lindig [illegible]
b – Thos P Hart Pat
c – J P Lansdale "
d – Jos Smith f. 81 Ec.
E – H C Wilson Pat.
f – John Christian
g – State School

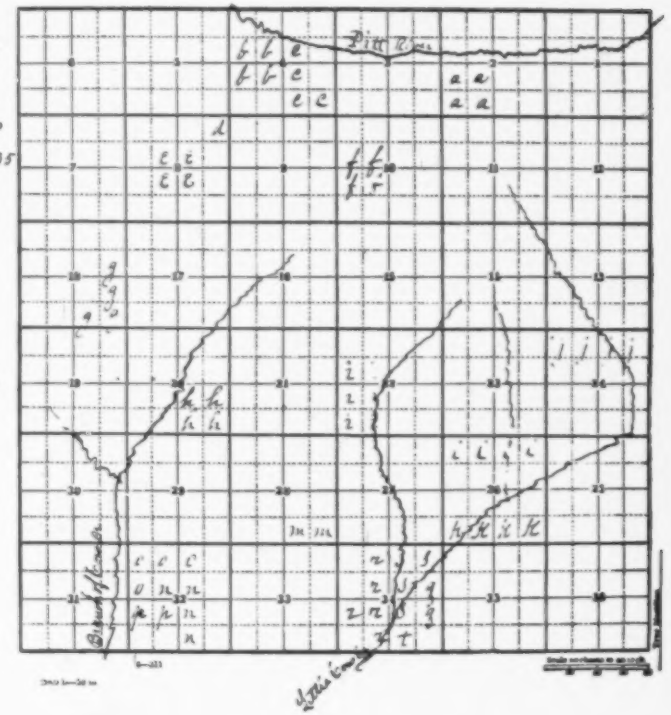
[illegible]

Township No. 27 N Range No. 1 W Mer.



[4—590.]

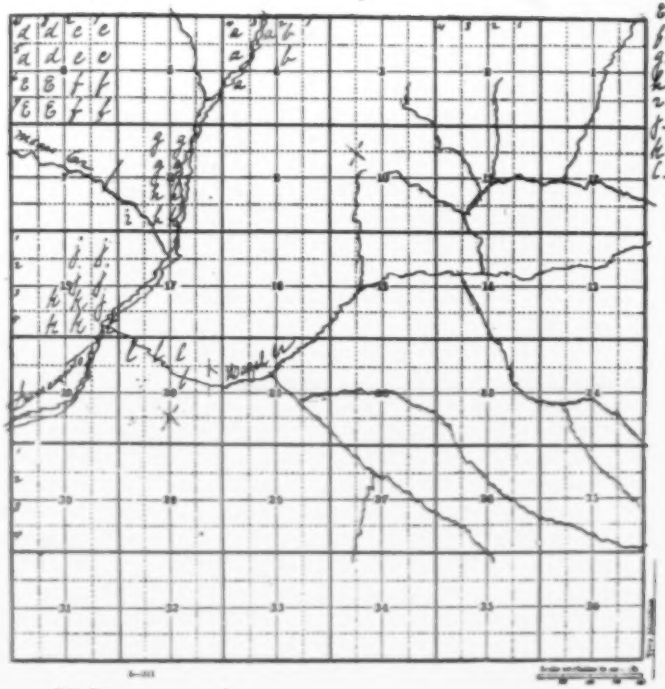
Township No. 33 N Range No. 3 W M.D. Mn.



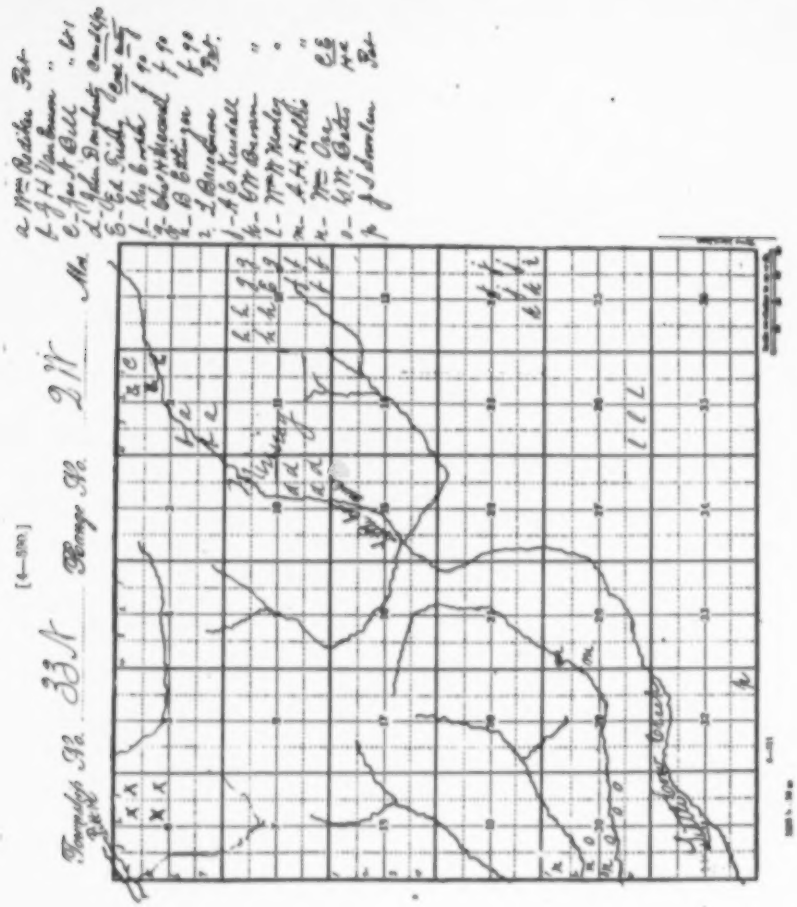
b - Antonio F Galeria
c - Jasper Fratus
d - W. A. Montgomery Pat
e - Aubrey F Hayes
f - Lafayette Holt
g - O. B. Sherman
h - J. D. Phillips 1884
i - Henry A Phillips 1883
j - Wm Fitzpatrick
k - Isaac Hall 1890
l - Sarah Fontana 1885
m - Robt J Hollis Pat
n - C. A. Hoxie
o - W. W. Lewis
p - John D Laywood
q - Alf Hilderth
r - Wm D Banner
s - Christ A Buckley
t - Joseph Whiley Pat

[4—500.]

Township No. 37 N Range No. 4 W Mer.



b- Robert W Foster f 90
c- Fred McClelland f 89
d- John A Lytle f 89
e- Chas W Davis f 89
f- Fred J Lane f 89
g- Ida M Southern I Pat.
h- Wm F Southern " "
i- Geo A Loring f 86 ac
j- J F Southern Pat.
k- Henry F Williams H fp 91
l- Homer Williams Pat


Township No. 33 N
Range No. 2 W
Mm

26 N — 1 W

Refer in reply to the following:

Department of the Interior,

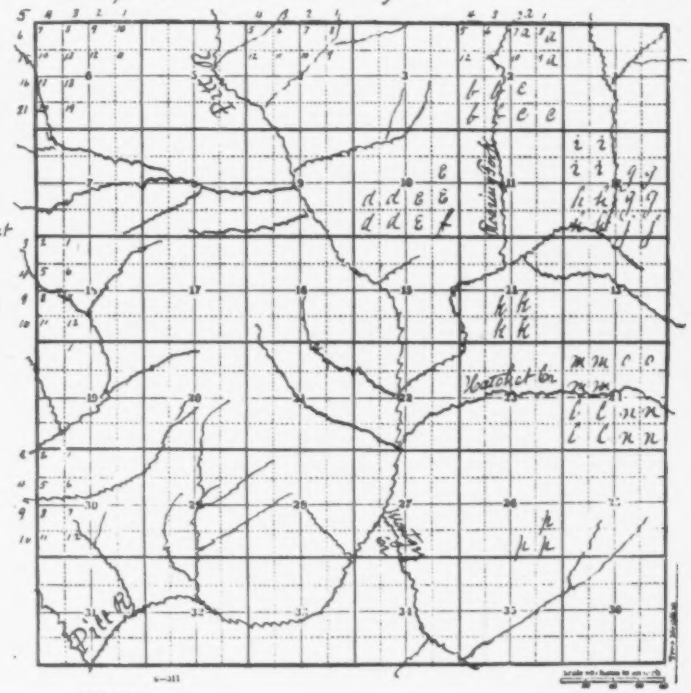
OFFICE OF INDIAN AFFAIRS,

Washington, ..., *18*....

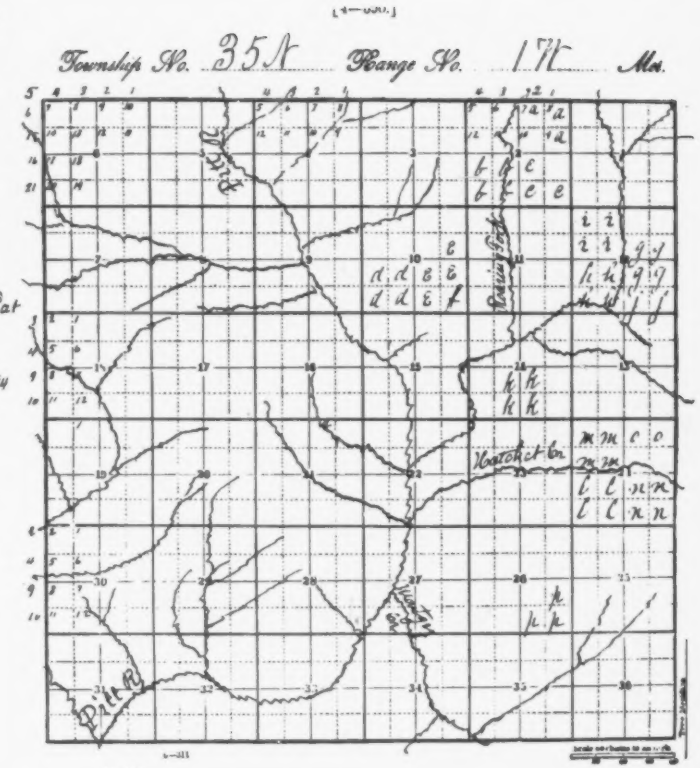
All of This Township is vacant excepting the E2 N1/4, and Lots 1 and 2 of Sec 30, State School

a D F J Handline
b Geo W Bryner
c Jacob Lamb
d S H Smith
e T. A. Lynn
f Wm J. Nelson
g S. B. Hudson
h S Geaber
i H Wilstrup
j S. Cline
k Benj May
l Thomas Harney Pat
m Alonzo Garrett
n Chas McClarry
o J F Seaman f 84
p Benj F Hawkins

Township No. 35 N Range No. 17 W Mer.



a D F J Handline
b Geo W Bryner
c Jacob Lamb
d S H Smith
e F. A. Lynn
f Wm J. Nelson
g S. B. Hudson
h S Graber
i H Wilstrup
j S. Cline
k Benj May
l Thomas Harvey Pat
m Alonzo Jarrett
n Chas McClary
o J F Seaman f 84
p Benj F Hawkins



[4—590.]

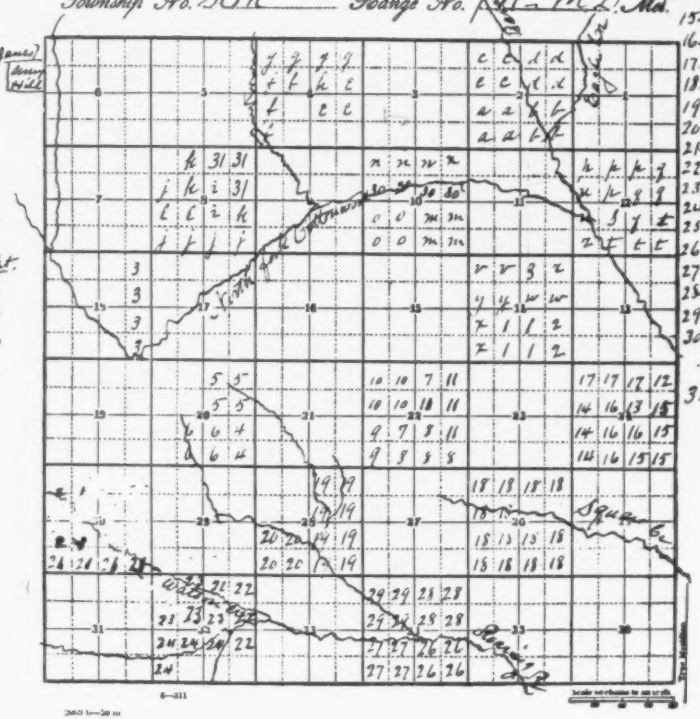
Township No. 30 N Range No. 7 W. M. D. Mer.

a – A. W. Baker Pat
b – Jacob Murey "
c – John W Dexter
d – Rollin Raines, Ind Hd
e – A. Haywood Pat
f – Joseph Frater Ind
g – Henry Wallace " (A M James) (Amy Hill)
h – Trammell Jas B Pat
i – Levi Davis
j – Gottlieb Leoffler
k – Wm C Marty
l – Don Noble
m – James M Frank
n – John A Longmiller Pat
o – Charles B Cottrell
p – Stephen R Hubbard Pat
q – Geo. McFarlin "
r – John J Wheelock "
s – Eliza Gillson "
t – Alanson Taylor "
u – John P Myer
v – David Franks
w – John C Philbrick "
x – John Stuck "
y – Henry Caswell "
z – Theo Van Tyne "

1 – Wm S. Kidder
2 – Thomas O. Smith
3 – Geo Kalbskopff
4 – Wm M James
5 – Mat Stuck
6 – A J Stuck
7 – Michael Brauen
8 – M J Downing Pat
9 – Sam Love "
10 – Dora J Voss

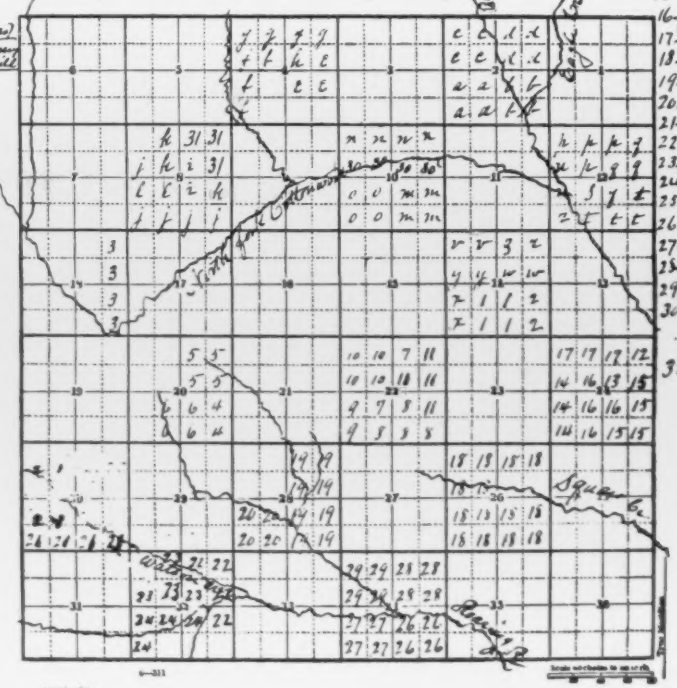
11 – Carl J. Voss
12 – John G Doll Pat
13 – Russell & Hanson "
14 – Jas M Chestnut
15 – D McCormick Pat
16 – Jas H Dickerson "
17 – H F Dickerson
18 – Blain & Larkin
19 – James Barnes
20 – Robt H Jordan
21 – Geo Hagerman
22 – Wm V. Murphy
23 – R. H. Wells Pat
24 – J H Jordan "
25 – Thomas James
26 – Isaac Crow "
27 – Geo Gous
28 – R F Beamer
29 – Day Rube
30 – Wm L Cottrell

31 Dick Watson



[4—590.]

Township No. 30 N Range No. 7 W. M. D. Mer.



a – A. W. Baker Pat
b – Jacob Murry "
c – John W Dexter
d – Rollin Raines. Sud Hd
e – A. Haywood Pat
f – Joseph Foster Sud
g – Henry Wallace " (A M James) Henry Hill
h – Trammell Jas B Pat
i – Levi Davis
j – Gottlieb Leoffler
k – Wm C Mavity
l – Don Noble
m – James M Frank
n – John A Longmiller Pat
o – Charles B Cottrell
p – Stephen R Hubbard Pat
q – Geo. McFarlin "
r – John J Wheelock "
s – Eliza Gillson "
t – Alanson Taylor "
u – John P Myer
v – David Franks
w – John C Philbrick "
x – John Stuck "
y – Henry Caswell "
z – Theo Van Tyne "

1 – Wm S. Kidder
2 – Thomas O. Smith
3 – Geo Kalbskopff
4 – Wm M James
5 – Mat Stuck
6 – A J Stuck
7 – Michael Branin
8 – M J Downing Pat
9 – Sam Love "
10 – Dora J Voss

11 – Carl Y. Voss
12 – John G Doll Pat
13 – Russell & Hanson "
14 – Jas M Chestnut
15 – D McCormick Pat
16 – Jas N Dickerson "
17 – H F. Dickerson
18 – Blain & Larkin
19 – James Barnes
20 – Robt H Jordan
21 – Geo Hagerman
22 – Wm V. Murphy
23 – R. H. Wells Pat
24 – J H Jordan "
25 – Thomas James
26 – Isaac Crow "
27 – Geo Yons
28 – R F Beamer
29 – Day Rube
30 – Wm L Cottrell

31 Dick Watson

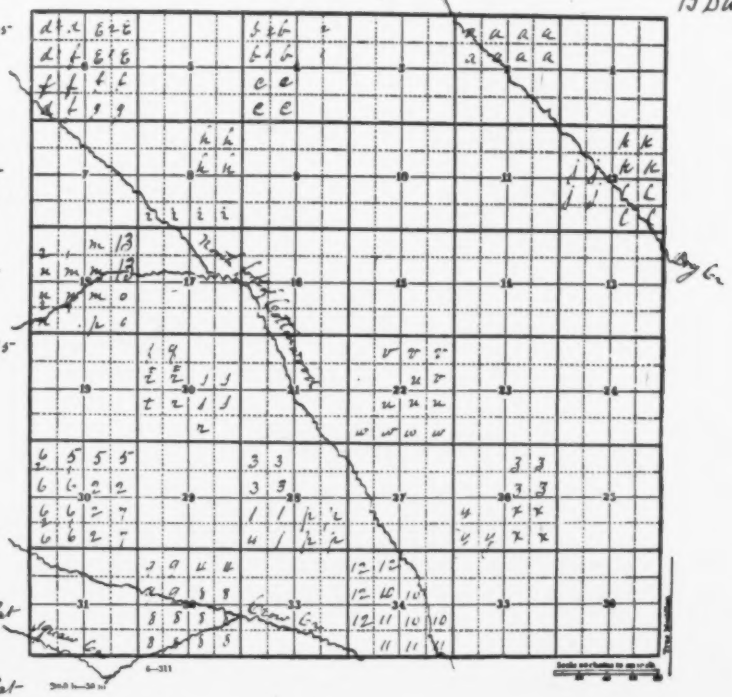
[4—590.]

Township No. 30 N Range No. 6 W - M.D. Mer.

a - Pitts Hill Pl Mining Co
b - Chas D Woodfield
c - John J. Palmer 1887
d - Valentine Doll Pat
e - Ed R Jones "
f - State School
g - John Brandel 1885
h - Hosa Dixon
i - H.W. Adkins
j - Rudolph Andre
k - Aug Anderson
l - Thornton Larson
m - Rasmus Peterson Pat
n - Aug Labude "
o - M. H. Myrick
p - Ed Linn
q - Geo McAllister Pat
r - James Peterson
s - Perry E Lee
t - Jasper Davis 1885
u - Jas J. Bartlett
v - Rob Rutherford
w - Robt Alerison
x - E. D. Baker
y - C. M. Tipton
z - E J Bartlett
1 - E. T. Stuffleton
2 - W B Wood Pat
3 - Elijah Groom
4 - Wm J Frazier
5 - Jacob White Heirs Pat
6 - B F White
7 - John Anderson
8 - Colin Christain Pat
9 - James Michel "

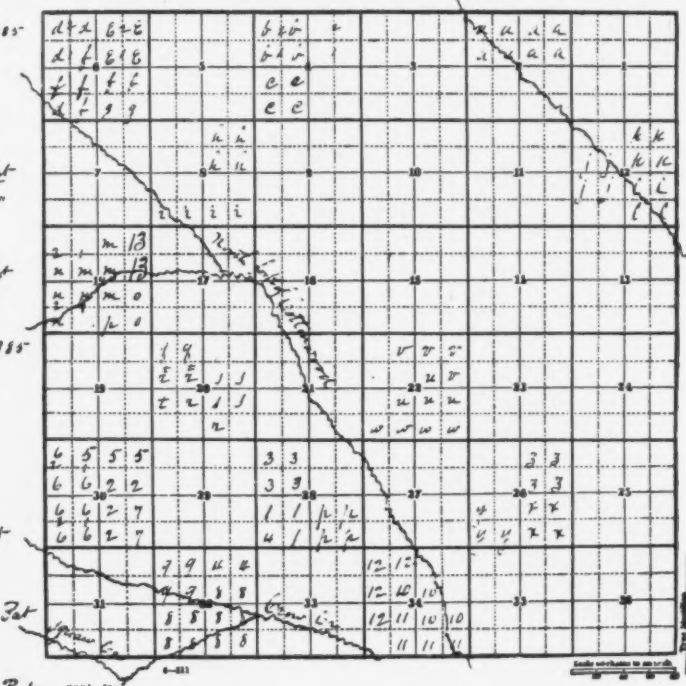
10 - H H Shuffleton
11 - H M Rockhold
12 - W. F. Hardman

13 Dinny Watson



[4—590.]

Township No. 30 N Range No. 6 W - M.D. Mer.



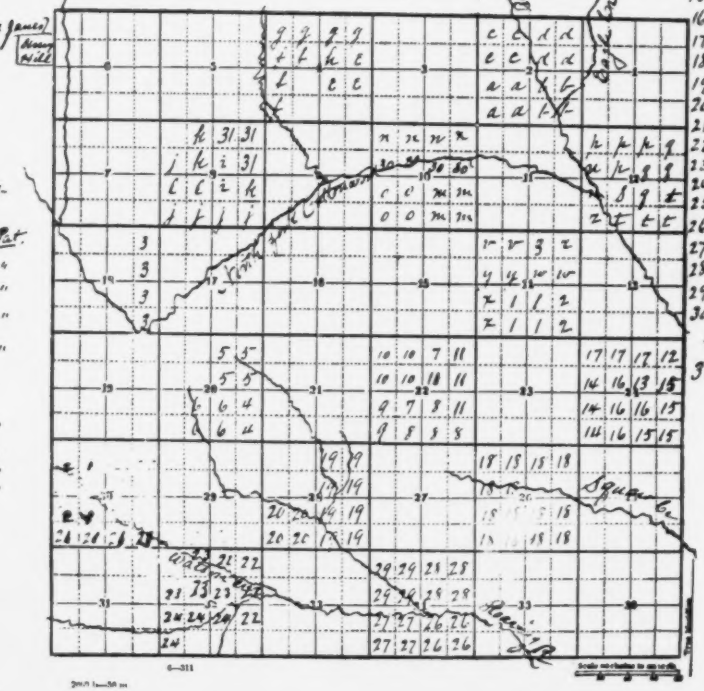
1 - Tuty Doll H Marcus Co
b - Chas D Woodfield
c - John J. Palmer 1887
d - Valentine Doll Pat
e - Ed R Jones "
f - State School
g - John Brandel 1885
h - Rosa Dixon
i - H.W. Adkins
j - Rudolph Andre
k - Aug Anderson
l - Thornton Larson
m - Rasmus Peterson Pat
n - Aug Labude "
o - M. H. Myrick
p - Ed Linn
q - Geo McAllister Pat
r - James Peterson
s - Perry E Lee
t - Jasper Davis 1885
u - Jas J. Bartlett
v - Robt Rutherford
w - Robt Alexison
x - E. D. Baker
y - C.M. Tipton
z - E J Bartlett
1 - E. F. Stuffleton
2 - W B Wood Pat
3 - Elijah Groom
4 - Wm J Fragier
5 - Jacob White Heirs Pat
6 - B F White
7 - John Anderson
8 - Colin Christain Pat
9 - James Michel "

10 - [illegible]
11 - H M Reikhold
12 - W. F. Hardman

13 Dinny Watson

[4—590.]

Township No. 30 N Range No. 7 W. M. D. Mer.



a - A. W. Baker Pat
b - Jacob Murry "
c - John W Dexter
d - Rollin Rainer, Incl Hd
e - A. Haywood Pat
f - Joseph Frater Incl
g - Henry Wallace " (A M James) Henry Hill
h - Trammell Jas B Pat
i - Levi Davis
j - Gottlieb Leffler
k - Wm C Marity
l - Don Noble
m - James M Frank
n - John A Longmiller Pat
o - Charles B Cottrell
p - Stephen R Hubbard Pat
q - Geo. McFarlin "
r - John J Wheelock "
s - Eliza Gillson "
t - Alanson Taylor "
u - John P Meyer
v - David Franks
w - John C Philbrick "
x - John Stuck "
y - Henry Caswell "
z - Theo Van Tyne "

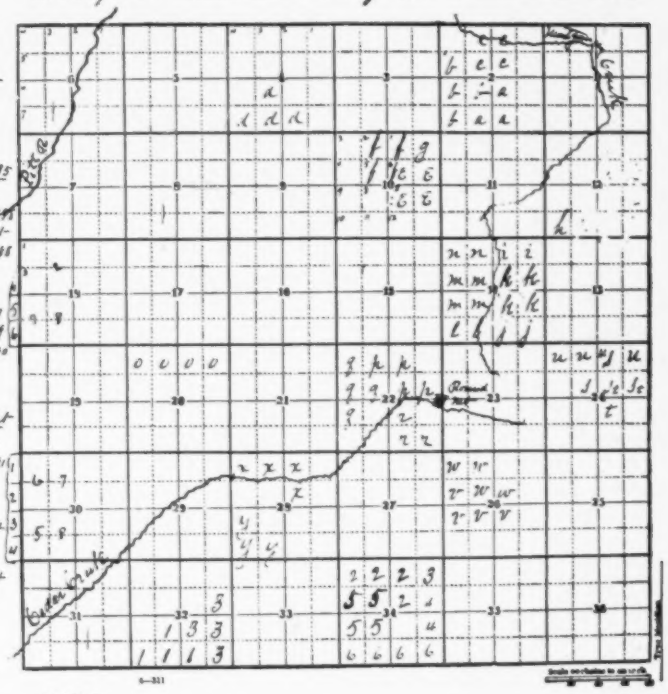
1 - Wm S. Kidder
2 - Thomas O. Smith
3 - Geo Kalbskopff
4 - Wm M James "
5 - Mat Stuck
6 - A J Stuck
7 - Michael Brauer
8 - M J Downing Pat
9 - Sam Love "
10 - Jos J Ross

11 - Carl G. Voss
12 - John G Doll Pat
13 - Russell & Hanson "
14 - Jas M Chestnut
15 - D McCormick Pat
16 - Jas H Dickerson "
17 - H F. Dickerson
18 - Blain & Laikin
19 - James Barnes
20 - Robt H Jordan
21 - Geo Hagerman
22 - Wm V. Murphy
23 - R. H. Wells Pat
24 - J H Jordan "
25 - Thomas James
26 - Isaac Crow "
27 - Geo Gous
28 - R F Beamer
29 - Day Rube
30 - Wm L. Cottrell

31 Dick Watson

[4—590.]

Township No. 34 N Range No. 1 W. M D Mer.

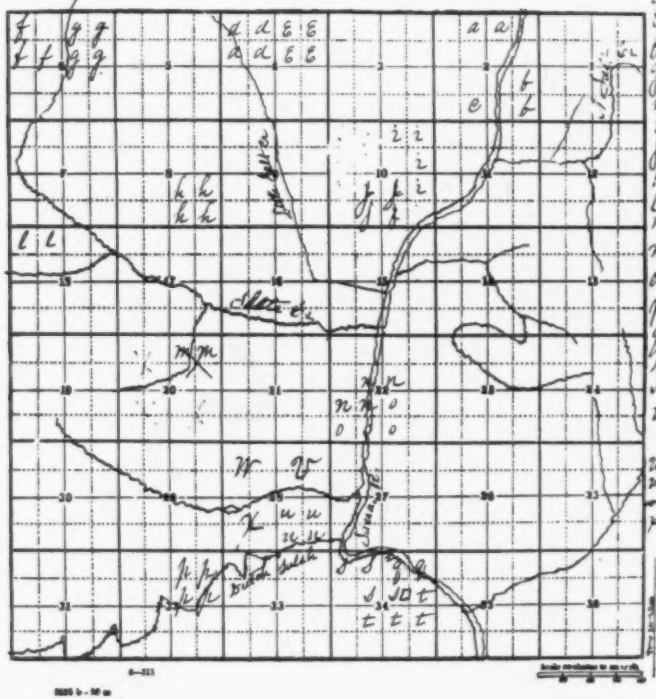


a – Frank C Ralston 1891
b – C C Darst "
c – John L Beaur "
d – Jas E Crews "
e – John A Johnson
f – Andrew Ruth
g – John J Lane
h – Surana Train
i – John A Hendricks Pat
j – E S Johnson "
k – Wm S. Stoner "
l – A C Fils "
m – Dick Richards Ind. 1885
n – Alma M Vogle
o – John Miller
p – John C Sick Pat
q – Mary A Fister 1888
r – Lewis Ensign
s – C E Gould 1887
t – Wm T Reily 1889
u – Jas P Keating 1890
v – Chas Roberts
w – Dan A McDonald
x – W. S. Wilsey Pat
y – Ed T. Anderson "
z – Martin B White 1891

1 – L. J. Barnes "
2 – W. H. Wright Pat
3 – M M Sonsinger
4 – B A B Jenkins
5 – C. T. F. Bergquest Pat
6 Harper Bevington

[4—590.]

Township No. 36 N Range No. 5 W Mer.



a- Robert P Gibson Pat
b- Chas A Edler Hd/89
c- Ed B. Cushman, Min Entry
d- Arthur K White Pat
e- Francis M Whitter "
f- John W. Conant TC Pat
g- Lewis P Lay " "
h- G C Burnight
i- Wm K Parkhurst f 90
j- Tom Gibson Ind Al
k- John Davidson
l- Milton Shoemaker f 82 ex
m- Walter Marvin f 87 ex
n- Michael Kirch f 85 ex
o- Harry Brink f 85 ex
p- Ed Busack Hd/89
q- Jesse P Parish fp
r Mineral Afft
s Louis Antenreith Pat
t Frank Klammstein f 80 ex

u Jos Burnett Ind Al
v Hattie Burnett " "
w John Burnett " "
x Chas Burnett " "

THE INDIAN REORGANIZATION ACT

(Public—NO. 383—73D CONGRESS)

(S. 3645)

AN ACT

To conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter no land of any Indian reservation, created or set apart by treaty or agreement with the Indians, Act of Congress, Executive order, purchase, or otherwise, shall be allotted in severalty to any Indian.

SECTION 2. The existing periods of trust placed upon any Indian lands and any restriction on alienation thereof are hereby extended and continued until otherwise directed by Congress.

SECTION 3. The Secretary of the Interior, if he shall find it to be in the public interest, is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public-land laws of the United States: **Provided, however,** That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this Act: **Provided further,** That this section shall not apply to lands within any reclamation project heretofore authorized in any Indian reservation: **Provided further,** That the order of the Department of the Interior signed, dated, and approved by Honorable Ray Lyman Wilbur, as Secretary of the Interior, on October 28, 1932, temporarily withdrawing lands of the Papago Indian Reservation in Arizona from all forms of mineral entry or claim under the public land mining laws, is hereby revoked and rescinded, and the lands of the said Papago Indian Reservation are hereby restored to exploration and location, under the existing mining laws of the United States, in accordance with the express terms and provisions declared and set forth in the Executive orders establishing said Papago Indian Reservation: **Provided further,** That damages shall be paid to the Papago Tribe for loss of any improvements on any land located for mining in such a sum as may be determined by the Secretary of the Interior but not to exceed the cost of said improvements: **Provided further,** That a yearly rental not to exceed five cents per acre shall be paid to the Papago Tribe for loss of the use or occupancy of any land withdrawn by the requirements of mining operations, and payments derived from damages or rentals shall be deposited in the Treasury of the United States to the credit

of the Papago Tribe: **Provided further,** That in the event any person or persons, partnership, corporation, or association, desires a mineral patent, according to the mining laws of the United States, he or they shall first deposit in the Treasury of the United States to the credit of the Papago Tribe the sum of $1.00 per acre in lieu of annual rental, as hereinbefore provided, to compensate for the loss or occupancy of the lands withdrawn by the requirements of mining operations: **Provided further,** That patentee shall also pay into the Treasury of the United States to the credit of the Papago Tribe damages for the loss of improvements not heretofore paid in such a sum as may be determined by the Secretary of the Interior, but not to exceed the cost thereof; the payment of $1.00 per acre for surface use to be refunded to patentee in the event that patent is not acquired.

Nothing herein contained shall restrict the granting or use of permits for easements or rights-of-way; or ingress or egress over the lands for all proper and lawful purposes; and nothing contained herein, except as expressly provided, shall be construed as authority for the Secretary of the Interior, or any other person, to issue or promulgate a rule or regulation in conflict with the Executive order of February 1, 1917, creating the Papago Indian Reservation in Arizona or the Act of February 21, 1931 (46 Stat. 1202).

SECTION 4. Except as herein provided, no sale, devise, gift, exchange or other transfer of restricted Indian lands or of shares in the assets of any Indian tribe or corporation organized hereunder, shall be made or approved: **Provided, however,** That such lands or interests may, with the approval of the Secretary of the Interior, be sold, devised, or otherwise transferred to the Indian tribe in which the lands or shares are located or from which the shares were derived or to a successor corporation; and in all instances such lands or interests shall descend or be devised, in accordance with the then existing laws of the State, or Federal laws where applicable; in which said lands are located or in which the subject matter of the corporation is located, to any member of such tribe or of such corporation or any heirs of such member: **Provided further,** That the Secretary of the Interior may authorize voluntary exchanges of lands of equal value and the voluntary exchange of shares of equal value whenever such exchange, in his judgment, is expedient and beneficial for or compatible with the proper consolidation of Indian lands and for the benefit of cooperative organizations.

SECTION 5. The Secretary of the Interior is hereby authorized, in his discretion, to acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments whether the allottee be living or deceased, for the purpose of providing land for Indians.

For the acquisition of such lands, interests in land, water rights, and

surface rights, and for expenses incident to such acquisition, there is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, a sum not to exceed $2,000,000 in any one fiscal year: **Provided,** That no part of such funds shall be used to acquire additional land outside of the exterior boundaries of Navajo Indian Reservation for the Navajo Indians in Arizona and New Mexico, in the event that the proposed Navajo boundary extension measures now pending in Congress and embodied in the bills (S.2499 and H.R. 8927) to define the exterior boundaries of the Navajo Indian Reservation in Arizona, and for other purposes, and the bills (S. 2531 and H.R. 8982) to define the exterior boundaries of the Navajo Indian Reservation in New Mexico and for other purposes, or similar legislation, become law.

The unexpended balances of any appropriations made pursuant to this section shall remain available until expended.

Title to any lands or rights acquired pursuant to this Act shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

SECTION 6. The Secretary of the Interior is directed to make rules and regulations for the operation and management of Indian forestry units on the the priniciple of sustained-yield management, to restrict the number of livestock grazed on Indian range units to the estimated carrying capacity of such ranges, and to promulgate such other rules and regulations as may be necessary to protect the range from deterioration, to prevent soil erosion, to assure full utilization of the range, and like purposes.

SECTION 7. The Secretary of the Interior is hereby authorized to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by this Act, or to add such lands to existing reservations: **Provided,** That lands added to existing reservations shall be designated for the exclusive use of Indians entitled by enrollment or by tribal membership to residence at such reservations.

SECTION 8. Nothing contained in this Act shall be construed to relate to Indian holdings of allotments or homesteads upon the public domain outside of the geographic boundaries of any Indian reservation now existing or established hereafter.

SECTION 9. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary, but not to exceed $250,000 in any fiscal year, to be expended at the order of the Secretary of the Interior, in defraying the expenses of organizing Indian chartered corporations or other organizations created under this Act.

SECTION 10. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of $10,000,-

000 to be established as a revolving fund from which the Secretary of the Interior, under such rules and regulations as he may prescribe, may make loans to Indian chartered corporations for the purpose of promoting the economic development of such tribes and of their members, and may defray the expenses of administering such loans. Repayment of amounts loaned under this authorization shall be credited to the revolving fund and shall be available for the purposes for which the fund is established. A report shall be made annually to Congress of transactions under this authorization.

SECTION 11. There is hereby authorized to be appropriated, out of any funds in the United States Treasury not otherwise appropriated, a sum not to exceed $250,000 annually, together with any unexpended balances of previous appropriations made pursuant to this section, for loans to Indians for the payment of tuition and other expenses in recognized vocational and trade schools: **Provided,** That not more than $50,000 of such sum shall be available for loans to Indian students in high schools and colleges. Such loans shall be reimbursable under rules established by the Commissioner of Indian Affairs.

SECTION 12. The Secretary of the Interior is directed to establish standards of health, age, character, experience, knowledge, and ability for Indians who may be appointed, without regard to civil-service laws, to the various positions maintained, now or hereafter, by the Indian Office, in the administration of functions or services affecting any Indian tribe. Such qualified Indians shall hereafter have the preference to appointment to vacancies in any such positions.

SECTION 13. The provisions of this Act shall not apply to any of the Territories, colonies, or insular possessions of the United States, except that sections 9, 10, 11, 12, and 16, shall apply to the Territory of Alaska: **Provided,** That Sections 2, 4, 7, 16, 17, and 18 of this Act shall not apply to the following-named Indian tribes, the members of such Indian tribes, together with members of other tribes affiliated with such named tribes located in the State of Oklahoma, as follows: Cheyenne, Arapaho, Apache, Comanche, Kiowa, Caddo, Delaware, Wichita, Osage, Kaw, Otoe, Tonkawa, Pawnee, Ponca, Shawnee, Ottawa, Quapaw, Seneca, Wyandotte, Iowa, Sac and Fox, Kickapoo, Pottawatomi, Cherokee, Chickasaw, Choctaw, Creek, and Seminole. Section 4 of this Act shall not apply to the Indians of the Klamath Reservation in Oregon.

SECTION 14. The Secretary of the Interior is hereby directed to continue the allowance of the articles enumerated in section 17 of the Act of March 2, 1889 (23 Stat. L. 894), or their commuted cash value under the Act of June 10, 1896 (29 Stat. L. 334), to all Sioux Indians who would be eligible, but for the provisions of this Act, to receive allotments of lands in severalty under section 19 of the Act of May 29, 1908 (25 Stat. L. 451), or

under any prior Act, and who have the prescribed status of the head of a family or single person over the age of eighteen years, and his approval shall be final and conclusive, claims therefor to be paid as formerly from the permanent appropriation made by said section 17 and carried on the books of the Treasury for this purpose. No person shall receive in his own right more than one allowance of the benefits, and application must be made and approved during the lifetime of the allottee or the right shall lapse. Such benefits shall continue to be paid upon such reservation until such time as the lands available therein for allotment at the time of the passage of this Act would have been exhausted by the award to each person receiving such benefits of an allotment of eighty acres of such land.

SECTION 15. Nothing in this Act shall be construed to impair or prejudice any claim or suit of any Indian tribe against the United States. It is hereby declared to be the intent of Congress that no expenditures for the benefit of Indians made out of appropriations authorized by this Act shall be considered as offsets in any suit brought to recover upon any claim of such Indians against the United States.

SECTION 16. Any Indian tribe or tribes, residing on the same reservation, shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, which shall become effective when ratified by a majority vote of the adult members of the tribe, or of the adult Indians residing on such reservation, as the case may be, at a special election authorized and called by the Secretary of the Interior under such rules and regulations as he may prescribe. Such constitution and bylaws when ratified as aforesaid and approved by the Secretary of the Interior shall be revocable by an election open to the same voters and conducted in the same manner as hereinabove provided. Amendments to the constitution and bylaws may be ratified and approved by the Secretary in the same manner as the original constitution and bylaws.

In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local Governments. The Secretary of the Interior shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Bureau of the Budget and the Congress.

SECTION 17. The Secretary of the Interior may, upon petition by at least one-third of the adult Indians, issue a charter of incorporation to such

tribe: **Provided**, That such charter shall not become operative until ratified at a special election by a majority vote of the adult Indians living on the reservation. Such charter may convey to the incorporated tribe the power to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange therefor interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law, but no authority shall be granted to sell, mortgage, or lease for a period exceeding ten years any of the land included in the limits of the reservation. Any charter so issued shall not be revoked or surrendered except by Act of Congress.

SECTION 18. This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, shall vote against its application. It shall be the duty of the Secretary of the Interior, within one year after the passage and approval of this Act, to call such an election, which election shall be held by secret ballot upon thirty days' notice.

SECTION 19. The term "Indian" as used in this Act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood. For the purposes of this Act, Eskimos and other aboriginal peoples of Alaska shall be considered Indians. The term "tribe" wherever used in this Act shall be construed to refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation. The words "adult Indians" wherever used in this Act shall be construed to refer to Indians who have attained the age of twenty one years.

Approved, June 18, 1934.

(PUBLIC—NO. 147—74TH CONGRESS)
(H. R. 7781)
AN ACT

To define the election procedure under the Act of June 18, 1934, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in any election heretofore or hereafter held under the Act of June 18, 1934 (48 Stat. 984), on the question of excluding a reservation from the application of the said Act or on the question of adopting a constitution and bylaws or amendments thereto or on the question of ratifying a charter, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate such exclusion, adoption, or ratification, as the case may be: **Provided, however,** That in each instance the total vote cast shall not be less than 30 per centum of those entitled to vote.

SECTION 2. The time for holding elections on the question of excluding a reservation from the application of said Act of June 18, 1934, is hereby extended to June 18, 1936.

SECTION 3. If the period of trust or of restriction on any Indian land has not, before the passage of this Act, been extended to a date subsequent to December 31, 1936, and if the reservation containing such lands has voted or shall vote to exclude itself from the application of the Act of June 18, 1934, the periods of trust or the restrictions on alienation of such lands are hereby extended to December 31, 1936.

SECTION 4. All laws, general and special, and all treaty provisions affecting any Indian reservation which has voted or may vote to exclude itself from the application of the Act of June 18, 1934 (48 Stat. 984), shall be deemed to have been continuously effective as to such reservation, notwithstanding the passage of said Act of June 18, 1934. Nothing in the Act of June 18, 1934, shall be construed to abrogate or impair any rights guaranteed under any existing treaty with any Indian tribe, where such tribe voted not to exclude itself from the application of said Act.

Approved, June 15, 1935.

Appendix F

Vote Chart--IRA

TRIBAL RELATIONS
PAMPHLET 1A

Indian Tribes, Bands and Communities Which Voted to Accept or Reject the Terms of the Indian Reorganization Act, the Dates When Elections Were Held, and The Votes Cast

September 1946

90-131 O - 89 -- 11

California total population
4644 + 30% abstain
Total vote population
4644
Total vote yes 3022 No 1622

ACTION BY TRIBES ON INDIAN REORGANIZATION ACT
(Those listed in black face type accepted the act)

STATE	RESERVATION	POP.	VOTING POP.	TOTAL YES	VOTES NO	ELECTION DATES
ARIZONA						
Colorado River Agency:						
	Colorado River	705	365	119	8	Dec. 15, 1934
	Fort Mojave	432	265	102	8	Dec. 15
	~~**Cocopah**~~	32	18	4	0	Nov. 17
Fort Apache Agency:						
	Fort Apache	2,718	1,340	726	21	April 27, 1935
Papago Agency:						
	Gila Bend	228	120	18	0	Dec. 15
Papago	**Papago**	5,146	3,028	1,267	166	Dec. 15
	San Xavier	525	283	158	22	Dec. 15
Pima Agency:						
	Fort McDowell	205	111	65	7	Oct. 27, 1934
	Gila River	4,659	2,308	1,188	116	Dec. 15
	Salt River	1,049	592	194	66	Dec. 15
	~~**Ak Chin**~~	179	87	53	15	Dec. 15
San Carlos Agency:						
	San Carlos	2,843	1,473	504	22	Oct. 27
Hopi Agency:						
	Hopi	2,538		519	299	June 15, 1935
Truxton Canon Agency:						
	Havasupai	201	106	72	3	June 15
	Hualapai	451	256	37	22	June 15
	Camp Verde (Yavapai Apache)	451	259	112	20	Dec. 15, 1934
Navajo Agency (Arizona, New Mexico)		43,135	15,900	7,608	7,992	June 14-15 1935
CALIFORNIA						
Colorado River Agency:						
	Fort Yuma (Quechan)	819	402	192	32	Nov. 17, 1934
Hoopa Valley Agency:						
	Hoopa Valley Reservation	554	240	8	174	Dec. 15
	Klamath River	925	375	38	256	Dec. 15
	***Quartz Valley**					
	Rancherias:	411				
	Smith River		41	1	31	June 14, 1935
	Crescent City		8	6	0	June 14
	Hohnerville		9	1	5	June 14
	Table Bluff		26	0	10	June 14
	Trinidad		4	4	0	June 14
	****Blue Lake**	No Votes				June 14
Mission Agency:						
	Augustine	14	13	0	6	Dec. 18, 1934
	Cabezon	29	17	0	7	Dec. 18
	Cahuilla	107	69	3	33	Dec. 18
	Campo	135	73	7	18	Dec. 18
	Capitan Grande (Including Barona)	160	87	37	35	Dec. 18
	****Cuyapaipe**	No Votes				Dec. 18
	Inaja	33	22	0	15	Dec. 18
	Laguna	3	1	1	0	Dec. 18
	LaJolla	221	145	28	68	Dec. 18
	La Posta	3	3	2	0	Dec. 18
	Los Coyotes	88	52	3	37	Dec. 18, 1934
	Manzanita	67	36	3	0	Dec. 18
	Mesa Grande	218	119	9	64	Dec. 18
	Pala	205	121	7	66	Dec. 18

*Indians residing on lands purchased from I.R.A. funds. Group is organized under the I.R.A.
**Act applies since Indians did not vote against its application.

total yes for Ca IRA 4644 + 30% who did not vote = 6037 − 1622 no = 4415 yes IRA

250K 54yrs since inception

13,500,000 should have been spent for land aquisition for Ca indians

STATE RESERVATION	POP.	VOTING POP.	TOTAL YES	VOTES NO	ELECTION DATES
Mission Creek	20	10	0	3	Dec. 18
Morongo	292	173	25	79	Dec. 15
Palm Springs	50	31	4	16	Dec. 15
Pauma	69	37	0	23	Dec. 15
Pechanga	216	156	14	48	Dec. 15
Rincon	181	114	22	58	Dec. 15
San Manuel	40	25	2	10	Dec. 15
San Pascual	9	3	2	1	Dec. 15
Santa Rosa	50	32	3	13	Dec. 15
Santa Ynez	90	48	20	0	Dec. 15
Santa Ysabel	237	122	14	47	Dec. 15
Sobobo	122	76	6	57	Dec. 15
Sycuan	35	23	6	16	Dec. 15
Torres Martinez	198	117	11	66	Dec. 15
Sacramento Agency:					
Alexander Valley		14	14	0	June 11, 1935
Alturas		13	6	5	June 8
Auburn		36	5	16	June 14
Berry Creek		49	0	26	June 12
**Big Bend	No Votes				
Big Sandy		38	1	25	June 8
Big Valley		46	21	4	June 8
Cache Creek		15	7	3	June 8
Buena Vista		4	2	0	June 12
**Cedarville	No Residents				
Cloverdale		20	10	0	June 11
Cold Springs		47	0	23	June 8
**Colfax	No Residents				
Colusa		36	25	1	June 12
Cortina		20	12	0	June 12
Coyote Valley		8	0	1	June 10-30
Dry Creek		49	8	17	June 10-30
East Lake (Robinson)		46	19	13	June 8
Enterprise		29	7	17	June 12
Fort Bidwell		41	27	2	June 8
Guideville		25	14	1	June 10
Grindstone		27	11	0	June 14
Hopland		56	28	3	June 10
Jamestown		5	0	5	June 11
Jackson		3	3	0	June 12
Laytonville		29	7	11	June 10
Likely		30	19	1	June 8, 1935
Lookout		12	6	2	June 8
**Lytton	No Residents				
Manchester		46	30	0	June 11
Middletown		13	10	0	June 8
**Millerton	No Residents				
Mooretown		43	0	34	June 12
Montgomery Creek		7	5	2	June 10
Nevada City		18	6	2	June 14
Northfork		6	0	4	June 10
Porkenta		26	17	0	June 10
Picayune		11	3	7	June 10
Pinoleville		51	29	1	June 10
Pitt River		2	0	2	June 10
Potter Valley		26	10	3	June 10
Redding		12	2	4	June 11
Redwood Valley		18	16	0	June 10
Rumsey		11	10	0	June 12
**Santa Rosa	Indians refused to Hold Election				

STATE	RESERVATION	POP.	VOTING POP.	TOTAL YES	VOTES NO	ELECTION DATES
	**Sebastopol	No Residents				
	Scotts Valley		17	0	10	June 8
	Sheep Ranch		1	1	0	June 12
	Sherwood		35	10	12	June 10
	Shingle Springs		3	0	3	June 13
	Stewarts Point		70	51	10	June 11
	Strawberry Valley		10	0	6	June 14, 1935
	Sulphur Banks		20	11	7	
	Susanville		9	6	0	June 12
	Table Mountain		16	2	10	June 8
	**Strathmore	No Residents				
	Taylorville		4	2	0	June 12
	Tuolumne		40	37	0	June 11
	Tule River	186	94	50	2	Nov. 17, 1934
	Upper Lake		36	7	4	June 8, 1935
	Wilton		14	18	0	June 15, 1935
	Round Valley (Covelo)	827	458	138	36	Nov. 17, 1934
COLORADO						
	Consolidated Ute Agency:					
	Southern Ute	389	129	85	10	June 10, 1935
	Ute Mountain	445	225	9	3	June 12
FLORIDA						
	Seminole Agency:					
	Seminole	580	295	21	0	March 30
IDAHO						
	Northern Idaho Agency:					
	Coeur d' Alene	634	203	76	78	Nov. 17, 1934
	Kalispel	88	38	29	2	Nov. 17
	Nez Perce	1,399	608	214	252	Nov. 17
	Fort Hall Agency:					
	Fort Hall	1,839	971	375	31	Oct. 27
IOWA						
	Tomah Agency:					
	Sac & Fox	419	198	63	13	June 15, 1935
KANSAS						
	Potawatomi Agency:					
	Iowa	498	245	115	3	June 15
	Kickapoo	308	151	74	16	June 15
	Sac & Fox	99	49	32	3	June 15
	Potawatomi	955	469	198	122	June 15
LOUISIANA						
	Choctaw Agency:					
	Chitimacha	128	35	25	3	May 14
MINNESOTA						
	Consolidated Chippewa Agency:					
	Fond du Lac	1,298	725	167	28	Nov. 17, 1934
	Grand Portage	377	179	75	4	Oct. 27
	Leech Lake	2,076	961	375	60	Oct. 27
	(Cass Lake & Winnibigoshish, White Oak Point)					
	White Earth	8,059	4,169	1,122	245	Oct. 27
	Nett Lake (Boise Fort)	627	317	159	7	Oct. 27
	Red Lake Agency:					
	Red Lake	1,968	828	418	24	Nov. 17
	Pipestone School	552	271	94	2	Nov. 17
	Lower Sioux					
	Granite Falls					
	Prairie Island					

Honorable Daniel K Inouye,
United State Senate
Select Committee on Indian Affairs
Washington, D.C. 20510 - 6450

DATE: June 24, 1988

SUBJ: YOKAYO TRIBE OF INDIANS, A NON - FEDERALLY RECOGNIZED TRIBE OF INDIANS IN CALIFORNIA WHO ARE NOT RECOGNIZED FOR FEDERAL INDIAN HEALTH SERVICES, CONTRACT HEALTH CARE OR FEDERAL FUNDS LIKE FEDERALLY RECOGNIZED INDIAN TRIBES.

Dear Senator Inouye:

The Yokayo Tribe of Indians welcomes you to the state of California, our Golden State. May your visit here with us add enrichment to you in spirit, mind, and soul.

To begin my written testimonial, I would first like to ask you to bear with me as I attempt to familarize you with our history as to our beginning and how we gradually came to our current trend of health deterioration and our tribal way of hopefully trying to prevent further health delemmas from developing.

The Yokayo Tribe of Indians maintains the status of being a Non-Federally recognized group of Indians who reside on a piece of property which was originally purchased from the labor of its tribal membership. This is to say that the members obtained money thru working and selling various cultural items.

The able bodied ladies of the tribe made some outstanding baskets which they sold plus they obtained job tasks from the white homesteaders who migrated to the "YOKAYO VALLEY" later called "UKIAH" by the new comers who could not pronounce the word "YOKAYO".

The able bodied men of the tribe likewise went out in search of manual labor jobs on the adjacent ranches, clearing lands, chopping fire wood, tending to cattle and livestock such as horses, cattle, sheep, etc. There were other jobs which needed to be done such as building fences, planting hops, and working in the prune fields.

The major motivating factor remained the same for all who went out in search of a job..... to be able to earn enough of the white-mans dollars necessary to obtain a down payment for the purchase of land suitable for the existence of the YOKAYO TRIBE OF INDIANS as a whole.

The Yokayo Tribal members worked in harmony with each other toward the same cause, they wanted to be able to co-exist on their natural homelands which they had always known from their ancestors before them back to thousands and thousands of years past.

This group of Indians did not want to be carted off to some distant lands which they did not know as they had seen the Federal Government do to some of the neighboring tribes. (NOW THE FEDERALLY RECOGNIZED TRIBES OF INDIANS). They kniew that if they allowed this to happen, they would only end up with land that no one else (WHITE MEN) wanted. This is how the government did things in those days. The Yokayo's wanted some good land with plenty of acorns, water, and basket making materials for themselves and for the future of their loving children, and their childrens children continually down thru the generations.

The Tribe continued to work in harmony in spirit, mind, and sould and finally in the eary years of history, around the end of 1878 onward a keen eye was kept open for appropriate lands suitable for the purchase of the tribe, taking into special account the fresh spring water supply, a fresh water creek running across the property, and the Russian River easily accessable for its tribal people to enjoy. Finally a parcel of land with all of the necessary resources which were of particular interest to the Indians was found up for sale with all of the commodities right there on the land and the Yokayo made their down payment on the spot. In the Year of 1881, The Yokayo tribe had pooled enough money together and had paid for the Tribal Property and the land Deed was theirs.

The Tribe was happy, they had finally a land base which was to become their permanent home where they could build their houses, kill their game, do their fishing, make their baskets, raise their children, and care for their sick and elderly of the tribe undisturbed by the outside world.

The out-side world did not leave them alone and not knowing of the diseases which accompanied the new-comers, the Yokayo Tribe of Indians discovered that some members of their tribal entities began falling sick to unknown diseases and illnesses. Tuberculosis, Diabetes, and Cancer to name a few was what the doctors diagnosed them as.

The wild foods which was the primary diet of the Yokayos soon began to disappear and was replaced by domesticated meats such as Pig, Beef, and Sheep. Sugars, salts, and soda's were introduced in their place, and these items tasting good to the palate soon replaced the acorn mush, sea-weed, quail, deer, rabbit, and other wild foods and wild vegetation items.

Due to the influx of the society at large, the Yokayo Tribe of Indians as been infected with a wide variety of viruses and bacterial germs. Because the Yokayo Tribe of Indians falls under the category of a Non-Federally Indian Status the Federal Government does not assume the Health Responsibilities in offering this group of Indian people Federal Indian Health Services Funding. AS a result this Tribe of Indians must try to the best of their capabilities to prevent the further spreading of infectious germs and diseases which are imported from every other culture known to our Government. We Need the Natural Spring Flow of Sub-Surface waters that came along with the Tribal properties when we first purchased the lands back in 1881 returned.

We need our fresh water creek restored to its original free flowing status thru our property just as it was when the Yokayo Tribe of Indians first purchased their land base, and further we need the Sewer Treatment Plant which has subsequently been established only three miles up-river from our Tribal Properties removed and restored to its normal waste-free status similar to what it was when the Yokayo Tribe of Indians originally made their land purchase.

In the 1880's while the Indians of the Yokayo were sweating for their money to purchase their Tribal Lands, Mexico was issueing MEXICAN LAND GRANTS to white settlers, and the Federal Government later began to issue HOMESTEADERS LAND GRANTS to its citizens. During these years Indian People were not allowed to vote, nor were they considered citizens. They had no say in anything concerning Land and Land Grants. Yet the Indians are the aboriginal Native Populations to the state of California.

THE MAJOR HEALTH PROBLEM THAT THE YOKAYO TRIBE OF INDIANS FACE TODAY IS THE LOSS OF OUR SUB-SURFACE SPRING DRINKING WATER FOR OUR TRIBAL FAMILIES, AND THEIR HOUSEHOLDS. WE ALSO HAVE LOST OUR FRESH WATER CREEK WHICH ONCE RAN THRU OUR TRIBAL PROPERTY. (THE WHITE RANCHER WHO BOUNDARIES OUR TRIBE TO THE SOUTH IS A GRAPE GROWER WHO HAS STOPPED UP THE CREEK ABOVE OUR PROPERTY AND BUILT HIMSELF A WATER RESERVOIR TO IRRIGATE HIS VINEYARDS HAS STOLEN OUR WATER TO IRRIGATE HIS GRAPE VINES FOR CAPITAL GAIN FOR HIS OWN FAMILY'S BANK ACCOUNT). IN ADDITION TO STOPPING THE FLOW OF FRESH CREEK WATER THRU OUR PROPERTY, HE HAS ALSO USED HEAVY EQUIPMENT AND MODERN TECHNOLOGY TO SEARCH OUT OUR SUB-SURFACE WATER VEINGS THAT SUPPLIED OUR FRESH WATER SPRINGS WHICH WE USED FOR DRINKING PURPOSES, COOKING PURPOSES, AND JUST EVERY DAY HUMAN CONSUMPTION NEEDS. IT IS A TREMENDOUS PAIN TO STAND IDLY BY THIRSTY AND DIRTY AND WITNESS THOUSANDS OF GRAPEVINES BEING IRRIGATED ANNUALLY WHILE HUNDREDS AND HUNDREDS OF INDIAN HUMAN BEINGS GO THIRSTY AND REMAIN RECEPIENTS OF CONTAMINATED RUSSIAN RIVER WASTE TREATED WATERS FOR THEIR DAILY NEEDS.

In 1974 we went to the CALIFORNIA INDIAN LEGAL SERVICES and lodged a complaint with the attorneys in that agency, hoping that they could represent us in a law suit to combat this water theft which had just began to become evident. The attorney at that time, Mr. Dennis Hoptowit, did nothing but write down our complaints. No further action was followed up on. They were to busy for us.

Today, eighteen (18) years later we feel the impact and discover that our complete water supply resources are now on the other side of the fence. Our Neighbor irrigates his grapes with our natural waters while we dont have enough water to wash our dishes, bath or even to grow our gardens.

If we are to remain a healthy tribe of Indians who must supply our own health needs to our people couldn't you see to it that Our Water Supplies are taken away from grapes and returned to us the Aboriginal Human beings of this state of California. Our lives depend upon Water. We believe that the water on the property which we purchased in 1881 belongs to us. The Sub-soil resources are ours, the water in the grounds are ours. The springs are ours, the water has been bought and paid for all thru the years for a hundred years of cash receipts

Please do not view this testimonial lightly as another drought year crisis situation, because this is not the case.....you see Yokayo Indians have been here long before any other race has been here and we know that this is typical California weather conditions, we lived thru many similar summers, and our bodies are in tune with these conditions, we know that this hot summer months will pass and with winter will bring back the rains to refill up our Natural Springs, Creeks, and Rivers. We only want our natural water ways returned to us so that we can be recepients of them when they do return.

In 1881 The Yokayo Tribe of Indians had adequate sub-surface water, creek water, and Russian River waters flowing thru the purchased property. This was one of the main selling factors which was considered when the property was purchased. The water supply on the land and in the land was adequate enough to supply a whole tribe of Indians with enough water to accomodate the following:

(1). GROW OUR FOODS
(2). ADEQUATELY MEET THE TRIBAL MEMBERS DRINKING THRU FRESH SPRING WATER RESOURCES.
(3). COOKING AND CANNING OF FOODS
(4). CLOTHES WASHING NECESSITIES.
(5). BATHING WATER AVAILABLILITY
(6). DISHWASHING NECESSITIES AND OTHER HOUSEHOLD CHORES ADEQUATELY MET.

Today, in 1988 we the Yokayo Tribe of Indians have a dramatically reduced source of water availability to meet any of the above mentioned needs. Today, we are lucky if we received any running water for fifteen (15) minutes in a day. Today, it is necessary for the Tribal members to haul in water from fire hydrants which are situated along the East Side Road route. We use River water for home use and consumption. The River is so badly polluted and a sewer Treatment Plant spews out waste water approximately 3 miles above where our property boundaries the river.

To repeat myself, all of our once fresh spring, creek, and river water has been stolen from us in the name of CAPITAL GAIN. There is no regard by anyone, Federally Recognized Indian Health Clinics, Public Health Services, State Indian Health Services, nor local Supervisors for the Health welfare for this unique group of Indian peoples in trying to promote better health, prevent further infectious virial or bacterial contaminations, or yet provide any form of treatment for the health dilemma's of this tribe. Just because they are not Federally Recognized as Indian people.

We pray that what has happened to us, The Native Aboriginal Tribes of California does not plague you the Native Hawiian Aboriginal Tribal member of Hawaii, one of our last states to be added to the U.S. Governmental entity.

Couldn't your investigation committee intervene into the concerns and eligibility criteria for Federal Indian Health Services acknowledge and reply to the Needs of NON-FEDERALLY RECOGNIZED ENTITIES OF INDIAN PEOPLES IN THE STATE OF CALIFORNIA?

In conclusion to this written testimonial I wish to make record of how you dazzled us with your performance involved in last years testimonial hearings surrounding the Oliver North Incident. You reflected yourself as a keen minded Senator and a very admirable human being. Don't change your standards of conduct, they compliment your position. We will be disappointed should you change your character to conform to the Capitol Hill Clan's way of thinking. You are a rare South Pacific Gem.

We pray, that what has happened to us, The Natives of California, do not happen to your people, the Natives of Hawaii because of Capitol Gain and Greed of the non-natives.

Sincerely in our Creator,

Emma Rose Mitchell

Emma Rose Mitchell,
Yokayo Tribe of Indians
Non-Federally Recognized Tribal member

7-8-88

Testimony of Preston Arrow-weed to the Senate Select Committee and Indian Affairs, oversight eligibility field hearing for California. Honorable Chairman Inouye, Senate Select Committee on Indian Affairs.

My name is Preston, Arrow-weed, a member of the Quchan Tribe located in the extreme Southeastern portion of California. Our tribe currently receives health services from the Service Unit at Winterhaven, California. There has been recent discussion concerning the possible closing down of the hospital at Winterhaven, CA.

In the best interest of the Quchan tribal members, I recommend that the proposed IHS eligibility regulation have a 3-year moratorium placed on the eligibility regulations. Secondly, the Senate Select Committee fund the proposed three-year impact study for California.

As a Quchan tribal member, I am requesting that the Service Unit at Winterhaven be included in the California 3-year impact study. Further, the Winterhaven Hospital should be considered to be transferred to Indian Health Service/California Area Office jurisdiction, and that any and all administration monies be applied to the IHS/CAO, and the service area funds not be reduced. It will be very important that IHS access tribal consultation and this will take place during the impact study process. In conclusion, Mr. Chairman, I believe that California tribes within the confines of California State should be under the jurisdiction of IHS/CAO. I would like to further request that the Senate Select Committee on Indian Affairs hold additional oversight field hearing in California to attempt to resolve long standing problems and concerns.

Preston J. Arrow-weed

Preston Jefferson Arrow-weed

July 1, 1988

Senate Select Committee on Indian Affairs
SH-838 Hart Senate Office Building
Washington, S.C. 20510

Honorable Committee

Please be advised that thousands of petitions, signed just at the attached were submitted to Indian Health Service in the State of California on behalf of Indian people and thier objection to the new elligibility ruling.

I attended one public hearing in the Redding area which had several hundred Indian persons objecting to the elligibility ruling. The decision of I.H.S. to pursue the ruling was not an oversight, it was a blatant disregard for Indian people and thier commentary.

As a federally regognized Indian person, I sympathize with the masses of non-federally recognized Indians in California. Certainly they were terminated, but that direction started with 18 treaties which were never ratified. There was no observance of due process or the Constitution of the United States. I have reviewed the California votes for tribes to go under the Indian Reorganization Act, they expressed their desire to do so, but where are the California Reservations? They certainly are not representative of the numbers who expressed a desire to go I.R.A.

Native Americans as a rule are very tired. Forever, when I hear "Liberty and justice for all"...I mentally add..."except Indians".

It has never seemed to me, prior to this particular committee, headed by this particular Senator, that any discussion was for any purpose other than to go through the motions. It seems that there is a sincere interest in pursuing investigation. I pray with all my heart that this is not an illusion.

Something about this Committee feels honest. I wish my grandfather had lived to see this.

Respectfully

Francesca

Francesca Boring
Shoshone
2110 North Street
Anderson, California 96007

PETITION

TO: INDIAN HEALTH SERVICE

We, the undersigned, herby notify you of our total opposition to your proposed rule changes on eligibility for health services. Indian people, as well as non-Indian are dismayed at your racist attitude and violation of the federal trust responsibility to Indians. We vehemently oppose your attempt to eliminate more than two-thirds of the Indian people from health care services. We demand that you cease and desist this activity by removing your proposal from consideration.

NAME	ADDRESS
Richard F. McLoney	2705 Hardave, Redding Ca.
[illegible]	[illegible]
Jannie McCubbin	C/o General Delivery Redding 96001
Carol De La Rosa	PO-Box 49-3262 Redding Ca.
Brandy Willis	3457 Charles Street Cottonwood, CA 96022
[illegible]	1594 Hemlock [illegible] Ca 96007
Michelle Schofield	PO Box 1243 Project City Ca 96079
[illegible]	[illegible]
Donald L Parker	Star Route Jenia Ca 95495
Gladys Parker	" " " "
Rebecca J Howtopat	PO Box 361 Cottonwood
Clifford Lalenkin	" " " "
Maxine Elgin	5995 Mt View Drive Redding Ca 96003
[illegible]	[illegible]
[illegible]	PO Box 994685 Rdg. Ca. 96[illegible]
[illegible]	1031 Douglas Red Bluff
Billie Sutter	2130 Sewell Lane Redding Ca 9[illegible]
[illegible]	5101 [illegible] Ave Cot 96007

TESTIMONY
June 30, 1988
Sacramento, CA.

Senate Select Committee on Indian Affairs
Eligibility Hearings

We the Association for Non-Federally Recognized Tribes of California recommend that 42 Code of Federal Regulations, Part 36, dated September 16, 1987, pertaining to the Final Rule governing who may or who may not receive health services from the Indian Health Services (IHS) be recinded and revoked.

California Indians have received the most consistently negligent treatment euer extended towards people entitled to benefits from the Federal-Indian trust relationship. The State of California learned from the example of other states that the best solution to the local Indian problem was to intervene in the process of recognizing Indians in California and there property rights and human rights in general, by preserve the estabishment of any reserved rights for California Indians, if at all possible. Eighteen well know treaties were made with groups of California Indians in 1851-1852, but due to the intervention of California politicians and wealthy entrepreneurs, among others, the Senate never ratified these. The condescending attitude of Anglo California towards local " so called Digger " Indians made it easy for the United States to ignore the sovereign status of many tribal governments.

Congress voted to end the Federal-Indian relatioship " at the earliest possible time" in 1953, House Concurrent Resolution 108. Starting with the Menominee Termination Act, June 17, 1954 (68 Stat. 250), and ending in 1961, the United States " terminated " 110 federally-recognized Indian Tribes and removed their land bases from trust status by special legislation, which means that the United States ended the government-to-government relatioship with those tribes.

What about the thousands of disenfranchised and unrecognized California Indians? One positive step would be the reauthorization of the Indian Health Care Improvement Act (P.L.93-437) Senate Bill 129. After March 16, 1989, 50,000 to 70,000 California Indians will no longer receive Indian health services with the implemenation if the " final rule " on eligibility Reg., Part 36, Indian Health Services.

Senate Bill 129 would insure that Health Care Services for American Indians and Alaska Natives will not be terminated. It would also insure that specific health care issues are addressed in order to improve the overall level of health care throughout the nation to be more equal with the general U.S. population. Indian people continue to die younger because of diseased and the rate of Indian Mortality is still high.

Therefor, We urge the U.S. Congress to resind and revoke the Final Rule on Health Care Services Eligibility. This action would demonstrate a good faith effort with the Indian community called American Indians.

Respectfully,

Melba Casares

Melba Casares, Temporary Chairperson
Association for Non-Federally Recognized Tribes of California

Allogan Slagle
Attorney At Law
Assistant Director for Advocacy
Lutheran Office for Governmental Affairs

SUSANVILLE INDIAN RANCHERIA

STATEMENT

Senate Select Committee on Indian Affairs Oversight Indian Eligibility Field Hearing. Senator Daniel K. Inouye, Chairman, scheduled for June 30, 1988.

SUBJECT: Susanville Indian Rancheria's recommendation regarding the Department of Health and Human Servies (DHHS) new Eligibility Rule for Indian Health Services (IHS) health care services.

On June 27, 1988, at a duly called meeting of the Susanville Tribal Council/Lassen Indian Health Board of Directors, the Tribe expressed their concerns regarding the DHHS new Eligibility Rule and the negative impact the implementation would have on the total Indian service population.

The intent of this statement is an expression of our opposition to the new Eligibility Rule as presently proposed by DHHS/IHS and, accordingly, to go on record stating our objection.

Furthermore, because of the numerous complexities revolving around the implementation of the Eligibility Rule, and the necessary time required for meaningful consultation and full participation of Indian people in California and nationwide, we hereby request that there be a indefinite moratorium on the implementation of any new regulation and, recommend that DHHS/IHS withdraw the final rule on IHS eligibility scheduled to go into effect September 16, 1988.

AARON DIXON
Tribal Chairman
Susanville Indian Rancheria

DRAWER "U" • SUSANVILLE, CALIFORNIA. 96130 • (916) 257-6264

TO: SENATOR DANIEL INOUYE, CHAIRMAN
SENATE SELECT COMMITTEE
ON INDIAN AFFAIRS

FROM: JOSEPH M. GIOVANNETTI, PH.D.
PAST-CHAIRMAN
TOLOWA NATION TRIBAL COUNCIL
2507 SUMMER STREET
EUREKA, CA 95501
(707) 442-5859

RE: TESTIMONY ON PROPOSED RESTRICTIONS OF "DEFINITION OF INDIAN" TO DETERMINE ELIGIBILITY FOR FEDERAL INDIAN HEALTH CARE SERVICES

DATE: JUNE 27, 1988

I am writing this testimony to urge your support for the reauthorization of the Indian Health Care Improvement Act (S 129) and HR 2290 (Udall). The Indian Health Care Improvement Act was passed in 1976 to bring the health status of American Indians and Alaska Natives up to the same level with that of other people in America. Failure to pass this legislation would have catastrophic consequences for thousands of California Indians and others nationally who have come to expect the life-giving health care services provided under the Indian Health Care Improvement Act.

I am concerned about proposed restriction of eligibility standards which may become law March 16, 1989. The proposed restriction of eligibility is particularly cruel to California Indians, who for over 100 years existed largely landless, without even a modest level of state or federal assistance for health care needs. During that same period (1850-1950) the United States did everything in its power to strip our people of our resources (for example, 90 per cent of our Tolowa people were killed or allowed to die untreated from diseases brought by Western civilization by 1880. Also, forced removal, starvation and the theft or extinguishment of title to 99.9 per cent of my tribe's 1,800 square miles of aboriginal territory has weakened us politically. Our people were left defenseless and virtually abandoned resulting from the U.S. Senate's refusal to ratify the 18 California treaties negotiated in 1852 by Commissioners Wozencraft, Barbour and McKee.

To restrict the definition of Indian to only those with tribal roll numbers is immoral because

it would violate the stated "law of the land" towards Indians, which since Nixon's administration has been tribal "Self-Determination." The proposed restriction of the definition of Indian is occurring at a time when tribes in California are the least prepared to respond or resist this cruel proposed regulation. There are virtually no alternatives for our low income American Indians, rural or urban. When our people get sick, most poor simply will not seek out medical services which they know they cannot afford. Of course, we know that this all works together against the continuation or survival of Indian people. As you know, the life span of the Indian male is 44.7 years compared to 74.7 for the white male.

California tribes are also negatively impacted by the definition change because of other factors. For example, many of our people still need to be identified and documented. Many California and over 100 tribes nationally are petitioning the Federal Acknowledgement Project (FAP) in Washington in our attempts to gain nationhood status. Most of our non-federally recognized groups are still in the process of identifying their peoples and establishing base rolls (something which they have not done for years in some cases and which requires much time, money and painstaking care.) Yet congress ponders changes in the definition of Indian when our tribes are the most vulnerable and pushed to be able to provide such data.

The proposed rigid definition of Indian would also establish a dangerously low funding formula base number which would hamper the level of services available for decades. I urge you to support the establishment of a commission which would study how the proposed change of the definition of Indian would impact California tribes (urban, rural, enrolled, non-enrolled, federally recognized, non-federally recognized, terminated and those tribal groups applying for federal recognition.) Without such a commission taking the time to adequately study the depth and breadth of the problem, I am sure that the entire change in regulations will prove to be a colossal error.

TIMBISHA SHOSHONE TRIBE
Post Office Box 206
Death Valley, CA 92328

CHAIRPERSON Alice Eben
VICE CHAIRMAN Mike Shoshone
SECRETARY/TREASURER Madeline Esteves
COUNCIL MEMBER Angie Boland
COUNCIL MEMBER Richard Boland

INDIAN VILLAGE ROAD
FURNACE CREEK
Phone (619) 786-2374

June 23, 1988

The Honorable Patricia Zell, Chief Counsel
Senate Select Committee on Indian Affairs
SH-838 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Zell:

This brief statement constitutes written testimony of the Timbisha Shoshone Tribe of Death Valley, California for the Select Committee on Indian Affairs Oversight Hearing regarding IHS eligibility. We appreciate the Committee's efforts to hold an oversight field hearing in Sacramento, thus allowing California Indians to address this important issue.

The final eligibility rule threatens some 50,000 or more Indians in California, who would lose their eligibility because they are not members of a Federally recognized Indian tribe. The final eligibility requirements do not extend IHS eligibility to any non-tribal members even though they may be eligible for tribal membership. There are approximately one-hundred California tribes, but over fifty percent are unorganized with no formal government or certified tribal membership enrollment. Hence, many Native Americans may be ineligible because they are members of tribes or bands that have not been recognized by the Secretary of the Interior. Others may not be able to show that they are recognized as tribal members because their tribe does not yet have a formal membership roll. For these reasons, the Timbisha Shoshone Tribe opposes the Final Regulations Rule on Indian Health Service Eligibility published in the Federal Register on September 16, 1987.

Sincerely,

Michael R. Shoshone

Michael R. Shoshone
Tribal Vice Chairman

MAIDU TRIBE
GREENVILLE RANCHERIA
BOX 237
GREENVILLE, CA 95947
(916) 284-6446

June 22, 1988

DANIEL K, INOUYE, Chairman
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
SH-838 Hart Senate Office Building
Washington, D.C. 20510

ATT: TESTIMONY STAFF, OVERSIGHT INDIAN ELIGIBILITY FIELD HEARING, June 30, 1988.

Chairman, Inouye:

We would like to express our concerns, regarding all the issues, and would have like to have been present on this most important hearing, but due to the lack of funding, we find it impossible.

The Greenville rancheria is in support of bill, S. 2382, introduced by Senator John Melcher (D-Mont.),that would place a three year moratorim on any changes in IHS eligibility regulations. We, understand this bill, S. 2382 would require the IHS to undertake a comprehensive area-by-area study of the eligibility issue, with special consideration given to the health status, economic, social, and cultural consequences of any change in eligibility guidelines. Further, the bill mandates that this assessment be conducted in cooperation with tribal governments, and that the findings be reported to Congress within two years after enactment of the law.

Also, existing IHS elibibility regulations would remain in effect during the moratorium.

Please keep us informed of the Select Committee on Indian Affairs hearing on eligibility hearing of June 30, 1988, Sacramento, California. And please include our written testimony in the hearing record as full as if presented orally.

The Greenville rancheria would like to thank you and your staff for all materials and information provided, regarding the IHS issues.

Sincerely,

Robertha Timmons

Robertha Timmons,
Administrator, Maidu Tribe

WUKCHUMNI COUNCIL

June 29, 1988

Dear Senator Daniel Inouye,

We are the Wukchumni Council of Tulare County, located in central California.

Our creation stories tell us that we have been here since the beginning of this world. We were created from the mud and water of the Mother earth here. We are the caretakers of this land. We are here to show our concerns regarding the eligibility requirements proposed by Indian Health Services.

This criteria will be leaving out many California Indians because we are not Federally recognized. Indian Clinics here in California will be able to treat Indians from out of state, but will be denying many native California Indians. The mere fact that our California treaties were never ratified, singles us out among Indian tribes across the United States. Why shouldn't California Indians be given the same benefits as Indians nationwide?

California Indians were recognized by the Bureau of Indian Affairs through state roll numbers. Our people were put on reservations, or given federal trust land allotments. Now why is Indian Health Services only recognizing reservation Indians.

Of the Indians that once lived on the reservations, many had chosen to move to the cities to find work and for other economic reasons. Now their children and grandchildren are no longer eligible to be enrolled on these reservations. Why are the decendents of these hard working Indian people being denied?

Many of our people are considered to be low income, many below poverty level. We have come to rely on our local Indian clinics where we get medical services, dental services, social services and transportation. We cannot afford to pay for doctor visits, prescription drugs or dental services. What are we supposed to do when our elder people get sick? What are we supposed to do when our children need dental work? Where are we supposed to turn to?

36787 Road 197 Woodlake, CA 93286
CUMOYNIM YOKUCH

WUKCHUMNI COUNCIL

We are proposing that Indian Health Services recognize any decendents of Indians with a California State roll number ~~as~~ entitled to Federal trust land allotments.

We feel the Federal Government owes us that much, to continue our health benefits for the pain and suffering that our ancestors endured over the years.

Thank you for your time and consideration of this letter. We need and appreciate any support you may give to the Native California Indian people raised here on this land and our generations to come.

Sincerely,

Elders

[illegible] Aranaiz

Martha Taplers

Marie Wilcox

Eddie Tennant

Helen Routh

36787 Road 197 Woodlake, CA 93286
CUMOYNIM YOKUCH

TESTIMONY BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS OVERSIGHT ELIGIBILITY FIELD HEARING, JUNE 30, 1988

CHAIRMAN INOUYE, MY NAME IS JOSEPH SALAQUE, VICE-CHAIRMAN OF THE CENTRAL CALIFORNIA AGENCY POLICY COMMITTEE DO HEREBY RECOMMEND AND REQUEST THAT THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES WITHDRAW THE FINAL RULE ON INDIAN HEALTH SERVICE (IHS) ELIGIBILITY SCHEDULED TO GO INTO EFFECT IN SEPTEMBER 1988.

THE CONGRESS OF THE UNITED STATES ENACT LEGISLATION DURING THIS SESSION WHICH WOULD:

A. ESTABLISH, BY STATUTE, THE CURRENT ELIGIBILITY CRITERIA FOR IHS SERVICES.
B. REQUIRE AN INDEFINITE MORATORIUM ON THE IMPLEMENTATION OF ANY NEW REGULATIONS.
C. REQUIRE IHS TO CONDUCT AN AREA-BY-AREA ASSESSMENT OF THE IMPACTS OF VARIOUS ALTERNATIVE CHANGES IN THE IHS ELIGIBILITY CRITERIA, WITH FULL PARTICIPATION AND CONSULTATION OF AMERICAN INDIAN AND ALASKA NATIVE TRIBAL GOVERNMENTS IN THIS PROCESS.
D. REQUIRE IHS TO PROVIDE A REPORT TO CONGRESS AND TO TRIBAL GOVERNMENTS CONVEYING THIS ASSESSMENT, INCLUDING THE RECOMMENDATIONS OF TRIBAL GOVERNMENTS.

Clara LeCompte, Tribal Leader
MAIDU NATION
P.O. Box 204
Susanville, CA 96130

June 21, 1988

Senator Inouye:

The Maidu Nation welcomes you to Indian Country. Our testimony here today isn't for monetary reasons, but for the Indian Nations in California, including our own, whose identity as Indian people is threatened not only by the Indian Health Service Eligibility Rule but the bureaucratic bible that has denied our Indian Nations federal recognition.

We, of the Maidu Nation, have existed exclusively within our ancestral and traditional boundaries in 'California' since being placed here by our Creator, Kah-Doe-Ya-Pem, as caretakers.

WE HAVE ENDURED the pain and suffering of the forced removal of our ancestors from their lands, and the imprisonment that followed, being forced to exist on foreign soil (Alcatraz and other holding pens);

WE HAVE ENDURED the brutal and indiscriminate slaughter of our people for the sake of gold and racial massacre; the destruction of our sacred sites and burial grounds for monetary and other reasons;

WE HAVE ENDURED the destruction of our Mother Earth in general; the rape of the land by removal of timber, minerals and traditional foods, pollution of the air and water, mass slaughter of our wildlife, and damming our most sacred source, our water, which was meant to run free as was the Indian;

WE HAVE ENDURED the insult of the so-called proposed treaties of California, the overwhelming audacity of the "California Indian Claims Settlement" lawyers hired by faceless and nameless persons, to sell this land (which is not ours to sell).

We, as Indian people, can never put a value on our Mother Earth nor do we have the right to negotiate the sale of this land put in our trust by the Creator. AND NOW, the Maidu Nation and other Indian Nations is expected to endure the greatest sin of all against Indian people.

The United States Government, through the guise of the Bureau of Indian Affairs and the Indian Health Service has tried once again to force our people into oblivion by putting into effect the infamous and very anti-Indian IHS Law: ELIGIBILITY! Now, we, as people of the Maidu Nation, have to prove to the bureaucracy that we are indeed Indian people.

I wonder what-'proof' the Indian agents asked for when our people were forcibly put on Alcatraz and other 'Holding Pens'! Did our ancestors

have the chance to produce their 'Red' cards showing "eligibility" before they were slaughtered and scalped? Did those individuals that 'sold-out' our people and Mother Earth have to show proof of being 'Indian' when they negotiated with the small army of lawyers in the "California Indian Land Claims Settlement"?

At this point, we are confused and need to be enlightened. When did we stop being 'Indian' and become 'chopped liver'? It is because we don't live in one of the government's 'Holding Pens'? Could it be because we choose to be known for what we are, Maidu Indians, and not by the name of a 'Holding Pen' called Rancheria or Reservation?

I contend, in behalf of the Maidu Nation, that the bureaucracy of the United States Government, in the guise of the Indian Health Service, has implemented just one more tool, in the name of "eligibility", to legislate the Maidu Nation and other Indian Nations out of existence, and this is just one more calculated 'Action Plan' of abolishment of the Indian Nations.

Let it be known by Congress that the Maidu Nation has proudly preserved our culture, language and spiritual ceremonies, and has survived atrocities never before put on a people by a conquering race. Our question then would be: What justification can you give us that will erase the insults, lies, thefts, murders, depravation of our homes and traditional lands, and finally the one thing that molds us together as a people, OUR IDENTITY? The Creator put us on Mother Earth as Indian Nations! Will you, as leader of this nation, stand by silently while the Native Americans of this nation are being legislated out of existence by such acts as the "Eligibility Rules" of the Indian Health Service?

The Indian Health service is a residual payor; therefore, eligible Native Americans must access any and all alternate resource available prior to IHS taking responsibility. In the case of non-federal recognition where eligibility determination is very restrictive, many Native people earning a minimum wage will not qualify for Medi-Cal simply because they exceed financial regulations by even a single dollar. And, of course, not all physicians accept Medi-Cal patients. In cases such as these, the Native Americans have no access to health care since they are non-Indian according to the Bureau of Indian Affairs and Indian Health Service policy. Where does the responsibility lie?

The Maidu Nation takes this opportunity to extend to the United States Congress a resolution requesting the involvement of Congress to determine Indian tribes by introduction of a Bill granting federal recognition immediately to all California Native Americans who by non-action of the of the Congress or by failure of the Congress to ratify 'lost' treaties has resulted in thousands of Native Americans being denied their rights due

them and accorded other federally recognized Native Americans--thereby establishing a population of "non-Indians" which are not able to access the various rights established through treaties with the United States.

Having stated the thoughts and feelings of the Maidu Nation, we leave you with this thought: The Maidu Nation, as well as all Indian Nations, are imperishable and irreplaceable--just as the soil from which we came.

In Behalf of the Maidu Nation-

Clara LeCompte

Clara LeCompte
Tribal Leader

THE MAIDU NATION
P.O. Box 204
Susanville, CA 96130

Resolution #05-88-002

RE: FEDERAL RECOGNITION AND ELIGIBILITY

WHEREAS: The Maidu Nation is a sovereign nation and enjoys the right to sovereign powers and responsibilities to the Maidu people; AND

WHEREAS: The membership of the Maidu Nation has historically been determined by Tribal descent, custom and religion, free from Federal law and interference, until the Gold Rush era onto the Maidu lands, AND

WHEREAS: The Maidu people were forced out of their ancestral lands and put in 'Holding Pens' until their lands were claimed by miners, settlers and soldiers, then released to become squatters on their own land; AND

WHEREAS: The Maidu Tribe can't enjoy the benefit of "eligibility" without first being federally recognized as an Indian Tribe, AND

WHEREAS: The Congress of the United States failed to ratify the treaties of 1892 creating a class commonly referred to as "non-federally recognized" Indian or tribes and caused thousands of California Native Americans into a class of people who do not enjoy any benefits under the Bureau of Indian Affairs and Indian Health Service policy. The Maidu Nation is counted in this class of non-federal recognition today, AND

WHEREAS: The Bureau of Indian Affairs of California has not acted in good faith in their dealings with California Native Americans since their intrusion into Indian country, using conflicting methods to determine federal recognition, and now under the new proposed Indian Health Service Eligibility Rules, the entire Maidu Nation would be excluded from health care provided by the Congress by means of P.L. 93-638, AND

WHEREAS: The Congress has violated their trust responsibility to the Maidu Nation by giving to the Bureau of Indian Affairs the power to determine who is an "Indian" and the Bureau of Indian Affairs has failed to grant the Maidu Nation federal tribal status, NOW

THEREFORE BE IT RESOLVED: That the Congress of the United States act immediately by introducing legislation assuring federal recognition to the Maidu Nation and other non-federally recognized Indian nations of California in order for their people to fully access and participate in all benefits accorded Native Americans by virtue of treaties and other congressional actions.

MAIDU NATION
Resolution #05-88-002

WE, THE UNDERSIGNED CERTIFY:

That the above resolution was passed by a Council of representatives of the Maidu Nation, having received authority to act in behalf of the Maidu people at meetings held by the Butte County Maidu, Lassen County Maidu, Yuba County Maidu and Tehama County Maidu, et al; passed by a vote of five (5) representatives of the Maidu Nation, and the Maidu Nations proclaimed Leader/Spokesperson.

Date: June 21, 1988

Signed: Clara LeCompte
Clara LeCompte, Tribal Leader

Sharon Guzman
Butte Co. Maidu Representative

Alfred Fitchen
Tehama Co. Maidu Representative

Martha Noel
Yuba Co. Maidu Representative

Mari Reid
Lassen Co. Maidu Representative

Rene Bushman
Plumas Co. Maidu Representative

Ethnography — Dorothea J. Theodoratus
History — Elizabeth McKee
Archaeology — FA Riddell, Dana Seidner

CHAPTER 2

ETHNOGRAPHIC RESOURCES

The Indian Creek Hydroelectric Project lies within the traditional territory of the Northeastern Maidu (also known as the Mountain Maidu or, here, simply as the Maidu). The Maidu lifeway has been recorded and studied by several anthropologists and linguists and other observers; however, knowledge about this group is in no way as comprehensive as the documentation for the neighboring Achomawi/Atsugewi or the Wintu. Stephen Powers (1877) provides an early account of the group, but the first comprehensive ethnographic document is that prepared by Roland B. Dixon based upon fieldwork in 1899–1903 (Dixon 1905). Myths collected by Dixon give time–depth to present–day concerns (1902, 1903, 1912). Dixon's monographs still stand as primary sources, although since his time many others have worked with the Maidu, conducting both primary data–gathering and the re–examination of archival materials. A. L. Kroeber incorporated much of Dixon's data in his comprehensive *Handbook of the Indians of California* (Kroeber 1925:Chapters 27–29), and Kroeber's generalizations about California Indian tribes derive in part from the Maidu ethnographic data. Additional data on cultural traits were collected in 1936 by Erminie Wheeler Voegelin for the University of California Cultural Element Distribution Study on Northeast California (1942). The Maidu have also been the focus of linguistic studies, many of which employed the standard technique of recording, translating, and analyzing myths and tales as a means of studying language and dialectic variation. Dixon's early monographs (Dixon 1902, 1903, 1905, 1912) were followed much later by the seminal research of linguist William Shipley (Shipley 1963, 1964), who again used oral literature as one source of data. Collection and translation of traditional oral literature provides an added benefit for the ethnographer, since important geographic, subsistence, and religious/ceremonial data are usually contained in the accounts.

Additional material on the Northeastern Maidu is found in the monographs of Francis A. Riddell, whose notes on ethnogeography are critical to the present study (Riddell 1960–1974). Riddell's overview of Maidu and Konkow ethnography also provides a recent synopsis of available data (Riddell 1968, 1978). Evans' work on the Northeastern Maidu at Honey Lake (1978) reveals details on economy and manufactures, as well as providing information on the eastern territorial limits of the group. Local experts also provide insight into the Maidu, including the brief account of Marie Potts, the remarkable Maidu woman who became a noted leader and political activist (Potts 1977) and the accounts of Robert Rathbun (also known as Coyote Man) (Coyote Man 1973a, 1973b; Rathbun 1966–1969). The field notes of both Riddell and Rathbun provided some detail for the present study. The efforts of local Maidu for status clarifications should not go unnoticed (Roundhouse Council 1983b). Also important is the recent work by Plumas National Forest Archaeologist Charles D. James, III, whose investigation of the Indian Creek canyon provides detailed data critical for this investigation (James 1981, 1985; James and Budy 1981). The works of Camacho (n.d.) and Kurtz (1963), local researchers, has also added significantly to the known data on the Northeastern Maidu. Local interest in Maidu traditions is reflected in the publications of the Plumas County Historical Society (Cooke 1981; Flournoy 1969; Mason 1976) and the collections of the Taylorsville Museum and Plumas County Museum (1985).

Ethnographic Overview

The Maidu are a culturally distinct group who occupied the northern Sierra Nevada at the headwaters of the various forks of the Feather River. These people are linguistically related to other members of the Maiduan family of languages—the Konkow to the southwest and the Nisenan to the south. The Maiduan family is in turn classified within the Penutian stock. While these three broad groups all speak Maiduan languages, the languages are not mutually intelligible, and cultural interaction between the groups appears to be typical of neighbors and not of members of a cohesive political or social unit.

In contrast to the Konkow, who occupied the varied foothill chaparral regions to the west, the Maidu lived almost entirely in the large mountain meadow valleys, of which Indian Valley is typical. Riddell notes that each valley may represent a more or less distinct subgroup of Maidu, a demographic fact strengthened by the derivation of group names from the names of the valleys. Indian Valley Maidu were called *tasay dyn*, derived from their name for the valley itself, *tasim koyo'* (Riddell 1978:370–372). The internal organization of Maidu groups followed the classic pattern of "village communities" as described by Kroeber (Kroeber 1925:396–398). Within this scheme, several villages formed one cohesive unit, which recognized (and if necessary, defended) a common territory and engaged in cooperative subsistence ventures. Political leadership was exercised by a single individual, although the leader's authority was limited to dispensing advice and acting on behalf of the village community, as necessary (Dixon 1905:224; Kroeber 1925:399; Riddell 1978:373). Dixon and Kroeber both indicate that the Maidu headman was accorded few, if any, economic privileges within the village community, and hereditary descent of the social role appears not to have been mandatory (or perhaps even persuasive). Kroeber notes that headmen may have resided in or controlled the largest of the ceremonial structures in any of the village communities, and may have achieved the office through personal power, wealth, and the general concensus of the group. Similarly, the group appears to have been able to honor another as headman if the office-holder no longer gave "satisfaction" (Dixon 1905:223; Kroeber 1925:399; Riddell 1978:373). Villages tended to be located on the edges of the large, flat, meadow-like mountain valleys and, as Dixon points out, the Maidu ". . . rarely lived out in the middle of the level stretches" (Dixon 1905:175).

Villages varied in size, and single village or village community populations may be estimated only imprecisely. By the time the first careful observer entered Maidu territory, the group had already suffered the effects of disease, violence, and the disorientation of rapid change. Kroeber estimates that the precontact population of the associated Maidu villages may have ranged from 125 to 200 persons, based on house count by village (Kroeber 1925:397). Cook estimates the pre-contact Northeastern Maidu population at 1050 persons (Cook 1976:19).

The subsistence economy of the Maidu was based on a thorough knowledge of useful environmental resources. Of the available plant foods, acorn formed the staple, as it did throughout much of California. Dixon notes that three species (black oak [*Quercus Kelloggii*], golden oak [*Q. mysolepis*], and interior live oak [*Q. Wislizenii*]) provided the preferred nuts which, when leached, were made into acorn soup or baked into hard loaves (Dixon 1905:186–187; Riddell 1978). The importance of acorn cannot be overstated, since in addition to its abundance, it met

the criteria of storablility so important for the mountain-dwelling Maidu. Numerous other plants afforded food, including various seasonal fruits and berries (especially manzanita), grass seeds, pine nuts, and numerous roots and bulbs (Dixon 1905:182; Hill 1972). Plants also provided the raw materials for utilitarian and artistic items, particularly the twined and finely coiled baskets for which the Maidu are reknowned (Kurtz 1963:29-40; Potts 1977:35-38).

Both aquatic and terrestrial fauna were significant elements in the Maidu diet, and Dixon notes that the Maidu living in the mountain valleys appeared to depend more on game than did their neighboring groups at lower elevations. Deer were sometimes taken by single hunters, but more often groups of people drove the animals over cliffs or along running fences, where concealed hunters dispatched them with bow and arrow or clubs. Elk and bear (including grizzly bear) were also taken, as were smaller game such as rabbits and a variety of birds, including quail, grouse, and pigeons. In the mountain meadows, waterfowl were also an important resource, and were frequently snared or shot alongside creeks or in open water.

The yearly round and life-cycle of the Maidu was guided by a complex system of beliefs and observances, with girls' puberty and mourning observances being particularly important. The various benevolent and malevolent spirits existing in the environment were often the purview of the shaman, a highly trained practitioner (most often a male) who could effect cures, guide some aspects of ceremonial life, and even engage in malevolent interpersonal or inter-village acts of vengeance. The skill and training required of shamans (and the considerable supernatural power they controlled) meant that they assumed powerful leadership rolls by virtue of their influence (Dixon 1905:267-283; Riddell 1978:384).

Of special importance for the present study is the well-documented Maidu creation story which evokes, in part, the canyon of the North Fork of the Feather River. In the course of his duties and journeys, "World Maker" created a world for the people, and within that world formed the necessities of life and opened up new territory for the Maidu. Several locales within the proposed project area are the scene of events from World Maker's time. Although the Maidu have undergone many changes from early contact to the present, these creation stories remain central to their world view today.

The early history of contact between the Maidu and explorers is not well documented. The neighboring Konkow and Nisenan groups appear to have been more directly affected during the late Spanish and Mexican periods, particularly through the establishment of ranchos near Chico and the activities of John Sutter at New Helvetia (now Sacramento). A devastating epidemic (thought to be malaria) swept the valley and Sierra foothills in the mid-1830s, resulting in a staggering death toll—especially among the Konkow and Nisenan. The degree to which pre-Gold Rush events altered the Maidu's way of life was lessened because of their relative isolation in the high mountain valleys. The Gold Rush, however, brought rapid change directly to the Maidu people. During this era, their traditional residential and resource areas were quickly usurped, and placer miners supplanted their use of the stream canyon.

Of special importance was the rapid development of agricultural interests in Indian Valley. As Riddell notes, the influx of agriculture altered traditional subsistence patterns, forcing the Maidu into an often hostile relationship with settlers (Riddell 1978:385). As elsewhere in the Sierra, animosity and suspicion led to open conflict between surviving Indian communities and settlers—a process which

contributed further to the disenfranchisement of t... Maidu from their own territory. In an effort to bring some order (and perhaps even fairness) to California's rapid transformation, the U.S. Senate authorized in 1851 a commission to treat with California Indians, to assign reservation lands and other benefits. In 1851, Commissioner O. M. Wozencraft concluded a treaty at Bidwell's Ranch near Chico, which set aside lands for local groups in the Feather River drainage. Despite strong support for this and 17 other treaties, they were not ratified by the U.S. Senate, and the Maidu were left without rights to any of their traditional territorial lands. Further, strong prejudice and discrimination mitigated against their establishing any economic or social position within or alongside the new dominant society. As Kurtz notes, the surviving Maidu people in Indian Valley worked as ranch laborers, although they remained stigmatized as " . . dirty, beggarly, [and] ignorant" (Kurtz 1963:92). Some relief came with the Dawes Act of 1887, which allowed some Indians to claim acreage (allotments) within their traditional territory. However, overly strict interpretations of the law resulted in very few allotments, and the Maidu's lack of legal experience left them open to trickery without access to recourse. Even those individuals who did successfully initiate the allotment process were often unable to maintain their rights through time (Kurtz 1963:93-96).

Just before the turn of the century, a state-wide movement developed to address the obvious plight of landless California Indians. The goal was their assimilation into the mainstream of Anglo society through persuasive, if not forced, acculturation. The Greenville Indian Industrial School was established in 1897, an outgrowth of an earlier Nisenan school. The Greenville school received children from several tribal groups and, through federal support, expanded its facilities and enrollment until 1922, when it burned, never to be re-opened. As with all such schools, the goal was to provide skills which would make Indians employable—albeit in the very lowest labor ranks. Domestic skills were "encouraged" for women, and men were given some training in blacksmithing, manufacturing, and agriculture. At no point did the schools encourage (or even allow) expression of traditional backgrounds (e.g., using one's own language, practicing traditional arts). Maintenance of identity and cultural traditions was seen as anathema to speedy and complete assimilation.

Contrary to the dire predictions of nineteenth-century observers, the Maidu people have not disappeared into the larger society. Strong communities and action-oriented organizations have developed in the area. These groups include the Maidu Tribal Council; the Roundhouse Council; the Butte Tribal Council; Plumas County Indians, Inc.; and an inter-tribal group, the Obsidian Nation. While economic development, medical, and educational programs are a primary function of these community organizations, each takes a critical interest in the preservation of the Maidu lifeway and the resources related to that lifeway. Thus, the ethnographic resources described below achieve significance not only through their scientific/anthropological value, but also because they are the object of concern for the present-day Maidu communities.

Research Strategy and Objectives

Ethnographic research on the area of the proposed project was conducted to locate and describe resources of scientific value and/or importance to present-day Maidu individuals and communities. The initial goal was to develop a thorough

inventory of such locales, using both documentary and oral data sources. The various monographs and archival field data discussed above were thoroughly examined. A rough list of potential ethnographic resource "types" guided this search, as follows: 1) village and camp sites; 2) use areas (e.g., resource gathering areas); 3) ceremonial areas (e.g., areas of ceremonial practice); and 4) place names (including places identified in oral literature and traditions). The latter category proved to be of great importance because of the references to project area locales in Maidu mythological traditions.

Primary data-gathering followed the literature search. Contact was made with the concerned Maidu organizations: the Maidu Tribal Council; the Roundhouse Council; the Butte Tribal Council; Plumas County Indians, Inc.; and with a representative of the Obsidian Nation (a multi-tribal group). The Plumas National Forest archaeologist was also consulted. From this initial consultation a list of possibly knowledgeable consultants was developed and, importantly, an assessment was derived of these groups' concerns about the project. Interviews were conducted both on- and off-site, focusing on ethnogeography, resource-gathering and use, and the various tales and myths which refer to the project area. Interviews provided substantiation and clarification of old material, and sometimes furnished new material on the area.

The interview process was conditioned by three important factors. First, the area of potential impact is small, and it was often difficult to focus on so short a reach of Indian Creek. Second, the duration of research was very brief, and while ethnographers believed that rapport with consultants had been established, the necessary process of repeated interviews and multiple visits to the area could not be followed. Finally, several consultants alluded (or flatly stated) that it was improper to "tell stories" in the summer months, for several reasons. While the degree to which this belief biased the results of the fieldwork cannot be strictly quantified, it may be fairly stated that comprehensive data will not be available unless fieldwork is conducted during the winter months.

The inventory of ethnographic resources presented below contains a description of the resource, followed by a preliminary analysis of impact. Impact assessments are general at present, since details of project construction are not yet fully developed. Recommendations for the mitigation of impacts are equally general, although the nature of the recommendations is not expected to change unless the basic characteristics of the project are modified (e.g., locations, pool size, and stream reach affected).

The recommendations for further data-gathering (ethnographic fieldwork) and analyses are based on several requirements:

1. Public Law 95-341. This Joint Resolution of Congress affirms the guarantees of religious freedom to Native Americans under the First Amendment to the Constitution. Actions required by the law are the assessment of federal undertakings relative to First Amendment rights through consultation with communities and traditional leaders. While the law does not carry explicit language guiding subsequent action, the legal heritage of First Amendment cases is often called into consideration. This law thus requires a careful review of contemporary religious beliefs and practices, and a companion evaluation of the potential of an action to burden First Amendment rights. Preliminary inventory data point with some certainty to

the possibility of such impacts, although intensive fieldwork will be required to describe the religious beliefs and practices, and to assess potential impacts of the project.

2. **National Register of Historic Places (NRHP).** The guidelines of the NRHP and the FERC guidelines (for Exhibit E) require a full assessment of significance, assessment of potential project impacts, and mitigation plans. As noted above, intensive fieldwork will be necessary to gather data sufficient to allow for such analysis and planning.

Ethnographic Inventory

Based upon consultants' statements, ethnographic and historical documents, and the archaeological record, the Indian Creek Water Power Project area figures heavily in the mythological history of the Maidu people. Today, this mythology continues to be considered both sacred and powerful by the Maidu people. In addition, Indian Creek is significant to the Maidu for its natural resources and its habitation and ceremonial areas. This section presents an inventory of resources associated with the Maidu (particularly the Northeastern Maidu) within the project area. The resources listed below are located on Map 7, and are presented in sequential order from north to south, beginning at the ethnographic site of *K'ow okum pulumtum*, just upstream from the confluence of Indian and Moccasin creeks, and continuing downstream to the town of Paxton. A preliminary discussion of impacts is presented after each resource, with the exception of a few place names for which physical remains have not been identified, and therefore for which no impact statement has been prepared.

Indian Creek

There are two Maidu names for Indian Creek: *Tosi koiyum sewi* and *Bumukum sewi* (Riddell 1968:89; USDA, FS, PNF n.d.:Ethno. File) (Plate 6). *Bumukum* means "sand" in Northeastern Maidu, and, in fact, the creek is also referred to as "Sandy Creek" in the literature (Coyote Man 1973a:33; Riddell 1968:89; USDA, FS, PNF n.d.:Ethno. File). According to an account in *Sun, Moon and Stars* (Coyote Man 1973a:30), Sandy Creek was formed as a result of the meanderings of a mythological monster snake that traveled nightly from the caverns on the downstream side of Soda Rock up through Indian Valley to Homer Lake, which is located in the mountains on the east side of Indian Valley. It was the "wiggling" motion of the Great Snake that reduced the hills along the creek to the sandbars which are visible today.

The white markings on the rocks and trees on the east bank of the creek from *K'ow okum pulumtum* (the confluence of Moccasin and Indian creeks) downstream to Soda Rock are believed to be caused by drippings from the Great Snake's milky white inner fluids. These same drippings are said to have caused the distinctive white markings on the bodies of mink, fish, badger, skunk, and certain birds. As the story is told, Mink and Fisher cut off the tail of the Great Snake as he was being lifted into the sky on a great hook by the Creator at *K'ow okum pulumtum*. They then carried the piece of his tail to Soda Rock, dripping its fluid all along the way (Coyote Man 1973a:32; Dixon 1902:47, 1912:57; TCR Field Data 1985). According to a

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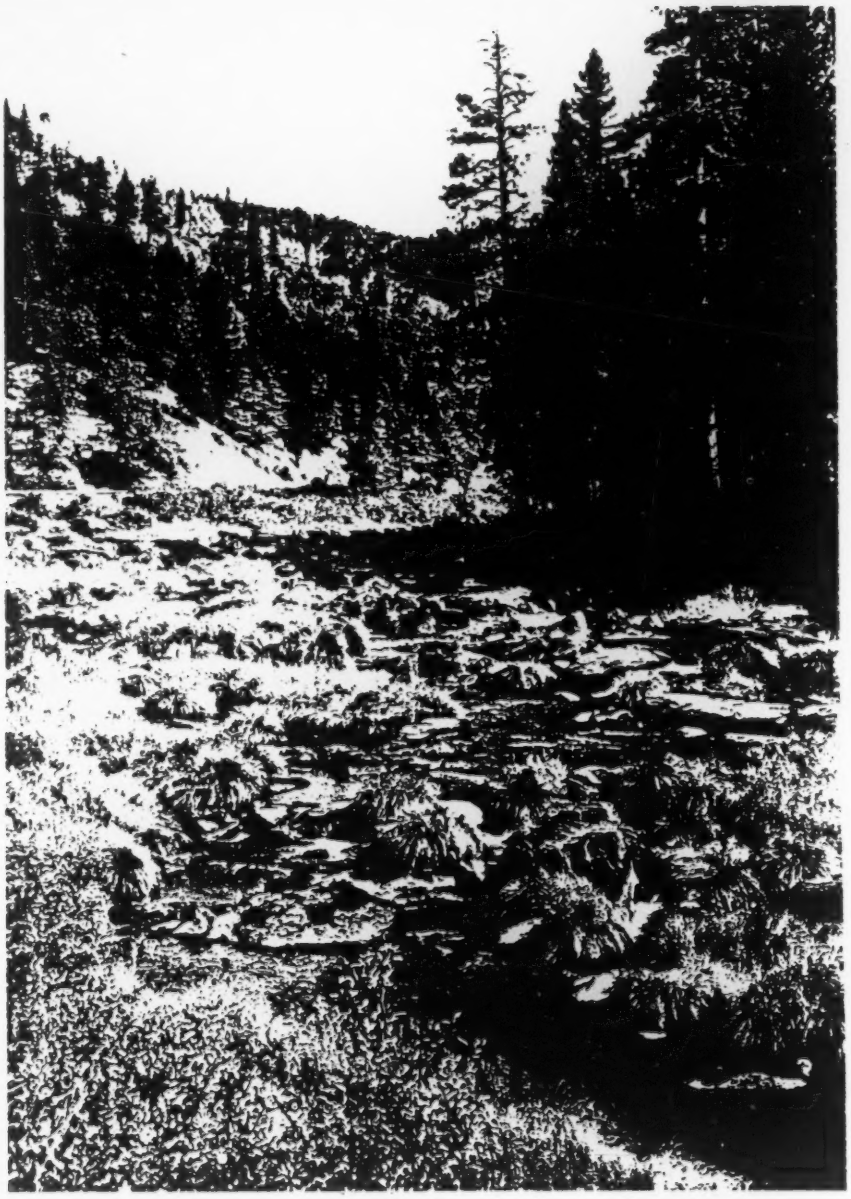

Plate 6. View of Indian Creek to the northeast (TCR Photo 1985).

Forest Service interview, great red or white ants splattered Soda Rock with their milky white inner fluid when Creator stomped on them (USDA, FS, LNF 1981:Ethno. Files).

The snake legend is only one of a series of myths or tales connected with the project area. Taken separately, any one of them (or even all of those for this particular area) could not reveal their collective importance in the total scheme of things. However, when considered within the context of the entire Maidu Creation Myth, their significance becomes more than apparent. In order to more fully understand the role of Indian Creek in the story of creation, it is necessary to explain briefly the sequence of events which are the essence of the Maidu Creation Myth.

According to the literature, the Maidu Creation Myth can be divided into four main periods or sections:

1. The arrival of Earthmaker and Coyote in this world, the creation of the land, and its preparation for the first people.

2. The making of the germs or seeds of the human race, and the planting of those seeds.

3. The arrival of people (not humans as we know them today, but rather animals with some human capabilities); a long period of conflict among these "people" and their eventual transformation into the animals as we know them today, minus their previous human capabilities; Earthmaker's frustrated attempts to rid the world of Coyote, who continually thwarts Earthmaker's efforts to make the world a pleasant place to live; and, finally, the ridding of the world of evil beings and monsters that would have made life dangerous for the Indian people who were yet to come.

4. Earthmaker's last unsuccessful attempt to rid the world of Coyote, Earthmaker's exit from the world near Reno, and finally the coming of the human race as we know it today (Dixon 1903:32–36, 1905:333–334; James 1985; Pricer 1972:2).

It was during the third period of events that the project area was affected. Earthmaker is believed to have traveled from Durham (south of Chico) to Susanville via the Feather River Canyon: more specifically, up the east branch of the North Fork of the Feather River, through American and Indian valleys to Big Meadows, then east to Susanville. His purpose was to rid the country of malevolent beings (i.e., water imps, giant ants and snakes, monster women) that would have made life dangerous for the Indian people. In addition, he made fertile and plentiful those valleys in which the people were to live. He left animals, good water, a variety of plant foods, and medicinal springs along the way (Coyote Man 1973a; Dixon 1902, 1903, 1912; James 1985; James and Budy 1981; Pricer 1972; Riddell 1968; USDA, FS, LNF 1981; USDA, FS, PNF 1982).

In historical and more contemporary recordings of Maidu beliefs, historians and anthropologists noted that the Creator, or Earthmaker, stomped on large red and/or white ants at both *Puslam koiyo* (Goat Hill) and Soda Rock, where their milky white inner fluids marked flora, fauna, and geologic features. Creator killed and turned to stone a monster snake at Soda Rock; Creator caught another monster snake with a sky hook at *K'ow okum pulumtum*, the white fluid from its tail

marking Mink, Fisher, Skunk, and Badger; Creator killed monster women at *Ch'ichuyam bam* (Soda Rock), thus allowing people to pass; and finally, Creator stomped on the water imp at Indian Falls. These malevolent beings had prevented the "people" from traveling up the trail along Indian Creek to inspect Indian Valley for future habitation. Creator also left salt grass for food at Soda Rock, mineral pools for bathing, and a sulfur spring whose water could be used for medicinal purposes. These events will be discussed in greater detail below, under each specific site.

In reviewing the mythological legends connected with the site descriptions, it would be useful to remember that, although there may be some variation in the actual expression of the legend, there remains throughout a common theme and a common purpose, moral, or meaning. These variations may have occurred due to the passage of time, the emphasis of the storyteller, or the geographic separation of the people sharing the story (Dixon 1903:337–339, 1905:345; Dundes 1965:29–32). This is a problem inherent in oral history. For example, although there are three distinct descriptions of the fate of the monster snake, he is always malevolent; he always resides in the caverns or caves at Soda Rock; he travels into Indian Valley via a path along Indian Creek; his milky white inner fluid marks local features; and he is killed or caught by Creator. Similarly, depending upon the storyteller, Soda Rock is believed to house some kind of monsters. According to one source, the Great Snake kept people from passing by Soda Rock (USDA, FS, PNF n.d.:Ethno. Files); according to other sources, it was the *Ch'ichuyam Koloknonom*, or monster women, who prevented travelers from passing by Soda Rock (Riddell 1968:90–91). The point is that Soda Rock was a place where evil dwelled, and it was only made safe through the actions of the Creator. Although the stories in each case differ, the purpose, lesson, or moral to be derived from them remain the same.

One consultant remembered that Indian people had lived along the creek at Indian Falls as far back as the turn of the century. This consultant noted that "campoodies" (groups of dwellings) were present on the hillsides along the creek during the summer. In the winter, the campoodies were moved back to warmer valley locations. Other consultants remembered ceremonial areas used for post-mortem burnings and Bear Dances (TCR Field Data 1985).

Consultants stated that Indian Creek was a natural resource area full of fish—trout at places of stream flow, and white fish in still pools. One consultant stated that, at one time, before the dams were built on the North Fork of the Feather River, salmon ran up Indian Creek and made their way as far as Big Meadows (Lake Almanor). Another consultant said this food source came up the creek as far as Indian Falls. Several consultants related that eels were caught at one of the first falls above the Greenville "Wye," at a place called *Luwu humenin*. Eel meat was used for food and the oil for medicinal purposes. A variety of plant resources were collected along Indian Creek: acorns, salt grass, fir boughs, wild plum, wild grapes, chokecherries, coffeeberries, and gooseberries (TCR Field Data 1985).

During a brief tour of the proposed reservoir site, ethnographers noted the presence of several traditionally important plant species. Since this preliminary inventory was made in late summer, many plants (particularly spring "greens") were probably missed. The useful plants noted were chokecherry (*Prunus demissa*), gooseberry and currant (*Ribes roezlii* and *R. cercum*), thimbleberry (*Rubus parviflorus*), milkweed (*Asclepias cordifolia*), California bay (*Umbellularia californica*), interior live oak (*Quercus Wislizenii*), saltgrass (sp.?), and

wormwood (*Artemisia Douglasiana*). There can be no doubt that many more traditionally useful species occur in the creek-side environment, although only through multi-seasonal observation can the full inventory be realized. It is also probable that, through exploration of the Creation Myths and other religious/ceremonial practices, many additional traditionally important plants will be documented. (As noted in the recommendations [Chapter 4], this aspect of fieldwork should be a component of all future studies.)

Significance and Impacts

The significance of the Indian Creek canyon, including that portion of the creek to be affected by the proposed project, derives from several sources. These sources of significance are interrelated; however, they may be discussed separately. They are 1) ethnic significance, 2) scientific value, and 3) present-day uses. Each category of significance is discussed below, and the discussion should be used as background for the significance statement accompanying the description of each ethnographic site.

Ethnic significance may be loosely defined as the value and importance of a resource to present-day Native American communities and individuals. This value may take many forms; however, the underlying principal is that a resource or set of resources are a part of the social processes by which cultural traditions and cultural identity are maintained. Thus, a site may be important because it is the locale of some important botanical resource used in the manufacture of traditional items. A site may also be significant because it is a physical manifestation of the traditional past, and while the locale is no longer used, it may be an important symbol of individual or group heritage.

Indian Creek, and many of the specific sites within the project area, possess significance because they are the places where profoundly important acts associated with the creation of the world and man occurred. As such, they are symbols of the traditional past of the Maidu people, and are also a component in the surviving belief system. Impacts to Indian Creek and locales along the creek may therefore produce a negative effect on the Maidu individuals and communities who are interested in preserving as much of their traditional lifeway as possible. Such impacts may also be seen as one of a number of historical events that have served to erode personal and community ethnic identity—events which may, in fact, be detrimental to the well being of individuals and the community.

Resources in the area of the proposed project may also possess scientific value. Former village, camp, and use sites, or places of mythological events, could be sources of important ethnographic and linguistic data if the sites were remembered by members of the community. In the process of gathering anthropological data, the landscape serves as an important mnemonic which helps many consultants recall events and stories. Thus, data available from community members are reduced along with the alteration of the landscape, and it is possible that information may pass completely from the community's memory if places in the landscape are not present as a reference when information is transferred from one generation to the next. The Indian Creek project, therefore, may contribute to the loss of important information if it inundates or alters important locales. In

addition to the loss suffered by community members, important data may be lost for future anthropological and linguistic study.

Some locales within the proposed project area are still used by members of the Maidu community. Predominant is the use of traditionally important botanical resources occurring in or near Indian Creek. Maidu traditional crafts require a number of plants originating in riparian habitats, particularly plants which produce materials for basketry. While such use does not appear to be great in that portion of the creek within the proposed project area, it does constitute an element of significance to the Maidu community.

Impacts to riparian habitats, and the resulting impacts to traditionally important plant resources, are not well understood. It is important to consider the habit of a useful plant as well as its frequency and distribution when assessing impact. While it is possible to alter instream flows and not alter the number of specimens of an important plant, the changes in habitat may alter the growth habit of the plant. If the change in habit is great, the plant or plant products may no longer be useful for the specialized purposes of the traditional artisan. While such impacts will undoubtedly be significant, their extent cannot be determined without multi-seasonal research on the riparian habitats and Maidu use of those habitats.

K'ow okum pulumtum (Mythological Sweathouse and Groove Traveled by the Great Snake)

There is a groove which is believed to have been traveled by a mythological snake from caverns at Soda Rock (*Ch'ichuyam bam*), up Indian Creek and through Indian Valley to Homer Lake. It was at this spot (*K'ow okum pulumtum*), near Moccasin Creek, that Earthmaker helped Mink and Fisher, two mythological hero brothers, to capture the snake by lowering a sky hook. Once the snake was caught on the hook and raised into the sky, Fisher and Mink cut off his tail. It is believed that the white milky inner fluid from his body forever marked Mink and Fisher, as well as Skunk and Badger. The rocks in this area are also said to be spotted with the white fluid from the snake. To celebrate the snake's capture, Mink and Fisher built a sweat house on a mound on the east side of the groove. This spot is still visible today (Coyote Man 1973a:30–31; Dixon 1912:55–57; Riddell 1968:98).

A second story states that Mink and Fisher cut the snake in two because of its misdeeds toward the people. The two pieces of the snake flung themselves into the sky and became the Milky Way (Indian Valley Record 1984).

Significance and Impacts

K'ow okum pulumtum derives its significance from its place within the complex body of myths and tales describing the creation of the world. This site is specifically associated with that portion of the creation myth cycle in which Earthmaker prepares the world for the coming of "the people." The locale is one of many physical manifestations of the Maidu Creation Myth in and near the proposed project area, and therefore it must be considered a component of a more extensive and complex ethnographic resource. (This ethnographic site is the same as archaeological site FS. 05-11-52-237.) Adding to the significance of this site is the presence of a local population of mink and otter, which are thought by some consultants to verify

the content of the creation account. The importance of this site (and others within the project area) to the present-day Maidu communities is addressed in the general section on Indian Creek, above.

This site is located upstream from the highwater (100-year flood) level of the proposed reservoir. The site will not be directly impacted by the reservoir or construction; however, the presence of the reservoir will alter the natural environment of the vicinity, a change which is thought by some consultants to alter and diminish the appreciation of the locale's mythological importance. Indirect impacts are not considered a threat to the site's integrity.

Koiyum bokum

"A place name, and presumably a village, on the west side of Indian Creek just upstream from the mouth of Moccasin Creek. The name means 'end of meadow'" (Riddell 1968:86). No further information was available for this site.

Moccasin Creek (Confluence with Indian Creek)

This area of Moccasin Creek is known to have populations of both otter and mink (TCR Field Data 1985). Mink play an important role in the capture of the Great Snake and in the disposing of the *Ch'ichuyam Koloknonom* (monster women) at Soda Rock (see *K'ow okum pulumtum* and *Ch'ichuyam bam*).

***Ch'iwisi* (Summer use area at Frizzie's Mill)**

Consultants referred to this area as a summer fishing camp. One consultant remembered being told that Indians lived in this location before the Whites. He recalled that this area was referred to as a "fish ground," and said that the Indians here made their living from fish and deer; there were plants throughout the area (TCR Field Data 1985). Riddell notes that several Maidu used this place as a fishing ground (Riddell 1968:92, 1960-74:Field Notes). The Terrills homesteaded the property (1894), and grew a large, "wonderful" garden; Indian people came here after that for vegetables (TCR Field Data 1985).

Significance and Impacts

Ch'iwisi is one of a number of locales along Indian Creek which directly represents the traditional lifeway of the Maidu people. No evidence of current traditional use of the site (e.g., fishing activities) has been found, although it does stand as a reminder of the traditional past for some members of the Maidu community. This site will not be inundated by the proposed reservoir under normal conditions. While the pool level at 100-year flood stage encompasses the site, such flood levels would inundate the site even under natural conditions.

***Wasam* Pool (Monster Pool)**

This pool area is located immediately downstream from *Ch'iwisi* and immediately upstream from the current recreational area called "Sandy Beach" (Plate 7). The Maidu word *wasam* means monster; local Indians refer to this place as the Monster Pool. This pool is also referred to by the Maidu as *Palo Why–cunun Dune*; *palo* means "snake" (Roundhouse Council 1985b). A Maidu elder remarked that older Indians said not to go here; that Indians would drown if they swam here. He was told that a "whirlwind" moves the spirit water making it dangerous for Indians. He knows that some Indians drowned here "way back." Another (younger) Maidu told researchers that evil spirits live here, and if an Indian person walks too close the spirits will pull him in and he will drown. This consultant knew of one Indian person who drowned here, reinforcing Indian belief in the malevolence of the area. The spirits are believed only to affect Indians and not Whites (TCR Field Data 1985).

Significance and Impacts

The *Wasam* pool was remembered and mentioned by several consultants. This pool is one of the places in the Maidu world inhabited by effective spirits—in this case, malevolent beings which can bring death to the unwary. The pool is significant to the present–day Maidu because it is a tangible reminder of their traditional world–view and belief system. The Wasam pool is above the elevation of the normal reservoir pool level, and will not be altered during normal periods of operation. During flood stages, the natural flood levels at Wasam pool will be increased only slightly (1%±) by the downstream impoundment structure.

***O witchono* (Wind Hole, Thumb and Split Rock)**

This mythological area is located on the north side of the highway above the proposed dam site. The area contains at least three seemingly split–rock formations, beginning at the base of the hill next to the highway and continuing up the ridge (Plate 8). The Maidu name for the "rocky ridge" in general is *Buyem Kume* (Roundhouse Council 1985b). The first formation, beginning at the road, is more commonly referred to as Thumb Rock. The Maidu name is *temtem mom chip boom om*; the stories related to this rock are not known (Roundhouse Council 1985b; TCR Field Data 1985).

The second formation is variously referred to as *O witchono*, meaning "Wind Hole" (Riddell 1960–1974); Split Rock (TCR Field Data 1985); *Abuwu wum kumi* (USDA, FS, PNF n.d.:Ethno File); and finally as *Muyen pa'pah pitoui yem–sit tem*, "the place where the wind begins" (Roundhouse Council 1985b). According to an interview by Riddell, there is an old Indian story about the wind beginning here; it was said that the wind would get trapped when it came down through this spot. It is also believed that "something evil" is present at one of the three formations. A TCR consultant said that, in spring, the Indians used to fill the gap (or split) in the second formation to stop the wind and to ensure a good acorn harvest. The debris would then be removed in the fall so that the wind could come through. This was done so that the wind could talk to them (Riddell 1960–74; TCR Field Data 1985; Roundhouse Council 1985b).

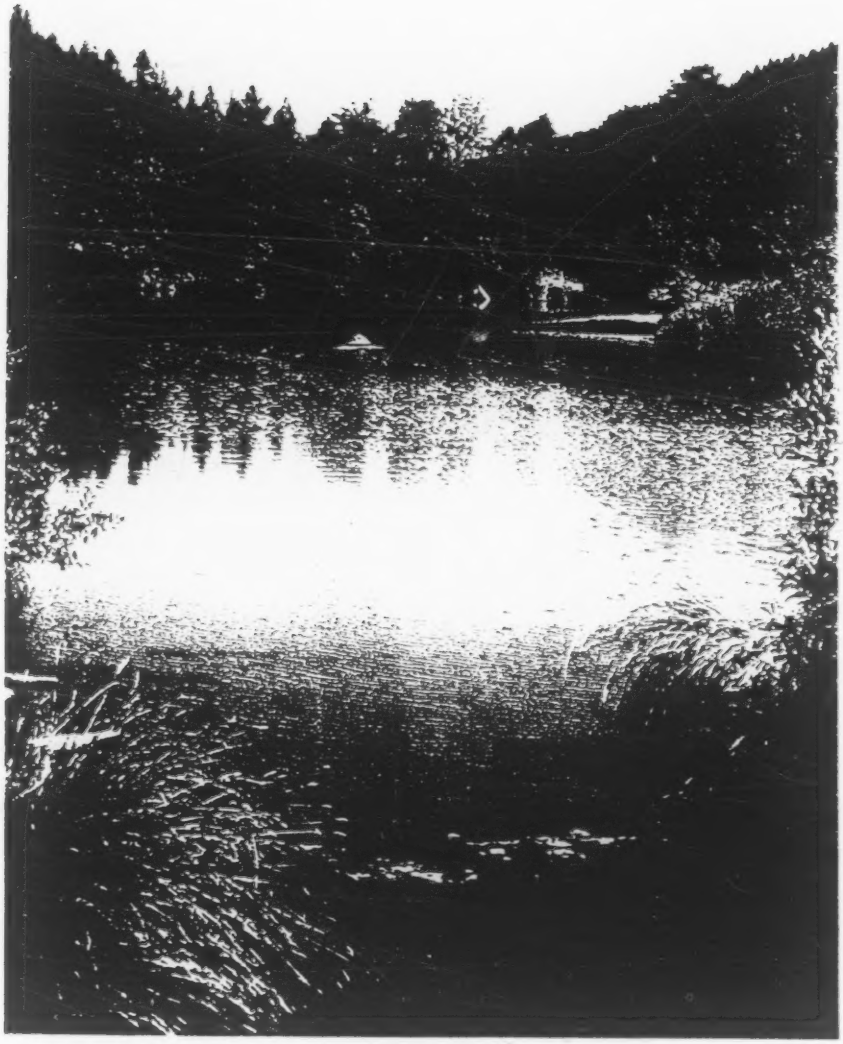

Plate 7. The Wasam pool (TCR Photo 1985).

Plate 8. O witchono, immediately above proposed dam site (TCR Photo 1985).

Significance and Impacts

Thumb and Split Rock are important physical components of Maidu spiritual beliefs. Consultants stated that if the formations were altered, the various legends associated with the rocks would be lost. According to consultants, alteration of the rocks in any way will cause them to lose their spiritual power, especially the power of the wind originating at the formation to talk with the people during the winter months.

The formation may be adversely affected by the construction of the dam and the rerouting of Highway 89. Current plans call for the right abutment of the dam to connect with the base of the rock formation. Highway 89, elevated at this point, will be located at the base of the lowest of the significant rock formations. Some consultants fear that the dam and road may weaken the formation itself. The proposed features will also alter the vicinity's landscape. These changes may result in a loss of spiritual power in the rocks, thus creating an impact to the traditional beliefs of the present-day Maidu communities. (Project consulting engineers have stated that the dam abutment and road cut will not weaken the structure of the formation. Also, while it may be possible to relocate the road away from the formation, it is not possible to change the design of the dam abutment.)

Koiyumbokum sewino* or *Humku (Indian Falls)

Indian Falls is located upstream from the *community* of Indian Falls and the mythological site of *Ch'ichuyam bam* (Soda Rock). Known as *Koiyumbokum sewino*, this is a mythological, ceremonial and resource area for Indian people, as well as a recreational area for local non-Indian residents. Its monolithic outcroppings make it one of the most picturesque locations in the project area. Indian Falls is also referred to by another Indian name, *Humku*. This means "a roaring or thundering sound," and refers either to the sound of an approaching storm or the sound of water falling over the rocks (Riddell 1968:91; TCR Field Data 1985).

According to Maidu legend, a water imp was believed to have inhabited the falls. The water running down the face of the falls was supposed to be the imp's hair and the sound of water falling, her alluring voice. "People" drawn to her song where either strangled or drowned by her hair. This part of the legend was consistent throughout TCR research and interviews; however, the imp's demise varies somewhat from one source to another. As in the case of Soda Rock, her end in both accounts is brought about by the Creator.

In the first account, the Creator used the sharp end of his cane to pry rocks down onto the water imp (the falls) from the bank above. She was, of course, killed in the process. When the boulders smashed the water imp they also forced the falls lower into the ground. That is why, by this account, the falls themselves are lower than the surrounding rock outcroppings (USDA, FS, PNF n.d.:Ethno. Files). The second account depicts the Creator "stomping" on the water imp and smashing the falls further into the ground, as above (Coyote Man 1973a:32-33; James and Budy 1981; TCR Field Data 1985; USDA, FS, PNF n.d.:Ethno. Files).

One Maidu consultant thought there were "a lot of Indians" at Indian Falls at one time. Burnings (sacred ceremonies to honor the deceased) were said to have been held at this locale in the fall of the year: "White folks called this the 'burning place.'" According to this consultant, the last burnings in the Indian Valley area

were held about 1910, when they were stopped by White people, but it is presumed that those at Indian Falls ceased earlier (TCR Field Data 1985).

According to another Maidu consultant, around 1919 the students at the Greenville Indian School used to take hayrides to the nearby Indian Falls resort and Shoo-Fly bridge (below the resort). They would swim there and picnic at the "resort." This locale continues in use today as a recreational area, with the pool below the falls a favorite swimming and picnicking area. One local Maidu collected acorns at the falls in 1984 (TCR Field Data 1985). Indian Falls is depicted in the Roundhouse Council calendar (1985a).

Significance and Impacts

Indian Falls is another of the places inhabited by the spirit beings of the Maidu belief system. As in the case of Wasam Pool, this is the home of a malevolent spirit capable of inflicting injury and death. This stretch of the creek has also been used to gather some traditionally important plants (acorn, wild grapes, Douglas fir boughs, chokecherries, coffeeberries, and other species found in riparian and near-riparian habitats).

The proposed project will alter the instream flow of Indian Creek between the diversion dam and the generation facility. A portion of the flows will be diverted during periods of generally higher water, although the winter/spring flows will be maintained at a relatively high rate (e.g., 50 to 80 cfs or four to six times the normal flows of the summer/fall dry period). Reduced stream flows may affect the traditions associated with the malevolent spirit resident in the falls. Flowing water and associated sounds are the physical manifestations (the hair and voice) of the mythological spirit. Some consultants have stated that changing the flow will alter the power of the spirit and the myth. Reduced flows may also alter the availability of traditionally used plants, although this potential impact has not yet been fully assessed.

Earthmaker's Staff

According to the Creation Myth, Earthmaker journeyed up Indian Creek with his cane or walking stick. Because he had heard the story of the monster women washing travelers off the trail and into the creek with their urine, he used his cane to jump over the creek at Soda Rock and then stuck the cane into the ground near where he crossed over the creek. To this date the staff has not been found (Coyote Man 1973a:29; Dixon 1902:55; James n.d.; USDA, FS, PNF n.d.:Ethno. Files).

Significance and Impacts

The significance of this resource results from its place in the Creation Myth of the Maidu. Since the site or feature depicted by the myth has not been found (if any physical evidence of the event exists), it is not possible to determine its impact by the proposed project.

Ch'ichuyam bam **(Soda Rock [Archaeological Site Plu–426])**

This site, locally referred to as Soda or Sodie Rock, has also been referred to in the ethnographic literature as *Tsu'tsuye* (Dixon 1912:55), *Chuchuya* (Coyote Man 1973a:29–32) and *Ch'ichuyan bam* (Riddell 1968:90–91) (Plate 9). The Indian names refer to the monster women believed to have resided at the site; the English name probably refers to the mineral or soda water that emanates from the boulder.

Soda Rock is a large, whitish boulder with a spring seeping down its face. It is located on Indian Creek approximately one mile southwest of the topographical feature of Indian Falls. On the downstream side of the boulder are caves which, according to Maidu legends, lead to Crystal Lake. These caves are believed to have been traveled by a monster snake on his journey from Crystal Lake to Homer Lake (a sacred lake where doctors train) via Indian Creek and Indian Valley.

At the base of the upstream side of Soda Rock is a small meadow–like area with travertine pools (now dry) and an abundance of salt grass. Both of these physiographic features are said to have been left by Earthmaker for the people and animals when he killed the monster women residing there. One of Riddell's Mountain Maidu consultants discussed the collecting, triple–strand braiding, coiling and burning of this grass, the ashes of which were used to flavor food (Riddell 1968:90–91). However, researchers found no current knowledge of grass being collected for this use today. In personal interviews with present–day Maidu, several remembered their elders telling them of how the pools were used by those with arthritis and/or bone ailments. The pools have long since been "stopped up" and are no longer used for this purpose (TCR Field Data 1985).

Soda Rock figures heavily in that part of Maidu mythology which deals with Earthmaker's preparation of the world for the people. He was believed to have traveled from Durham up the North Fork of the Feather River and Sandy Creek, also known as Indian Creek (Coyote Man 1973a). Because the Feather River Canyon was laden with monsters, it was necessary for Earthmaker to rid the area of them before people could inspect Indian Valley.

At Soda Rock, in a large sweat lodge, lived the *Wasam* (monster women) called *Ch'ichuyam Koloknonom* (Riddell 1968:90–91). It was the practice of these women to drown travelers walking up the trail along Indian Creek leading to Indian Valley. The belief was that these women "pissed on everyone coming up the trail—like a fire hose—" over the creek to the bank on the west side (Coyote Man 1973a:29), washing them into the creek where they drowned. The area down which they urinated has a hydraulic appearance even today.

When Creator heard of their activities, he traveled up to Soda Rock, and with the help of his staff crossed the creek so that he would not be washed away by the urine of the monster women. It is said that he then tossed his staff or walking stick into the creek or ground (Dixon 1912:55). He continued on to *K'ow okum pulumtum*, where he instructed the two heroes, Mink and Fisher, on how they might rid themselves of the monster women at Soda Rock. With Creator's help, they captured the mythological snake and cut off his tail; and while the monster women danced in their sweat lodge, one of the heroes dropped the snake's tail down the smoke hole and into the fire. The gasses from the burning tail asphyxiated the women (Dixon 1912:55–57).

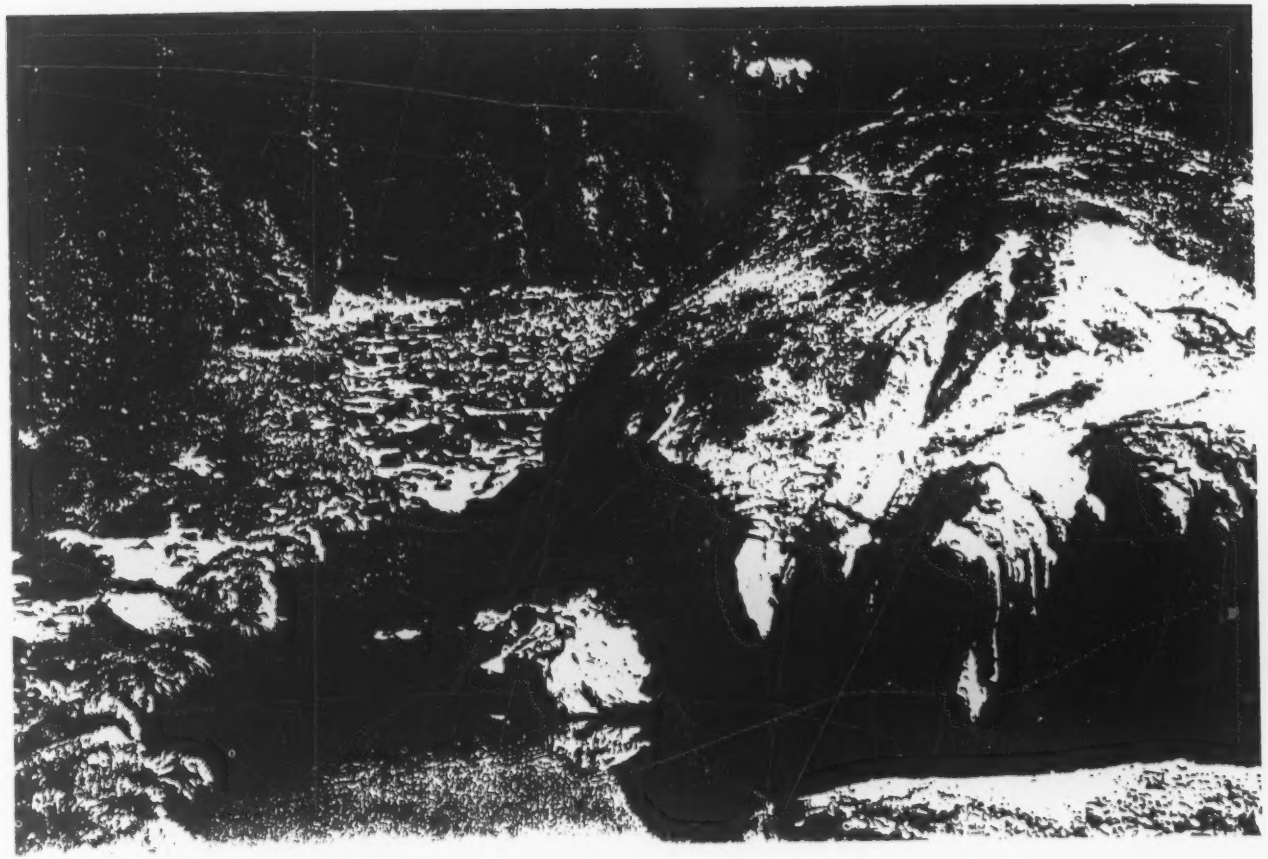

Plate 9. Soda Rock and Indian Creek (view to the southeast) (TCR Photo 1985).

Whippoorwill, one of the monster women who was sitting on the rock at the time, was frozen to it. The white outline of her body, with her legs extended over the streamside face of the boulder, is still visible today. The small stream of water seeping from the face of the boulder is said to be her urine, and the white markings on the boulder the drippings of the milky fluid from the monster snake's tail (see *K'ow okum pulumtum*). Another account suggests that these white spots are the blood of the giant monster ants crushed by Creator when he smashed the monster women's sweat lodge (USDA, FS, LNF 1981).

Once the monster women were dead, Earthmaker stomped on the dance house, leaving only a sinkhole above the top of the boulder as evidence of its presence. It was at that time that he created and left for the Maidu people the salt grass and mineral pools mentioned above.

According to the Indian Valley Record (1984), this was also a gathering site for holy people. Some Maidu people believe this place still possesses great power. During fieldwork, certain consultants refused to discuss the area because they believed that once you talk about or in any way destroy (or change) a sacred site, its powers are lost and the legend dies. Quarrying in the area on top of Soda Rock is believed by some Maidu to have killed the power, and to have partially destroyed the sweathouse. Others believe power still exists there and do not want the area damaged any further (TCR Field Data 1985; USDA, FS, PNF 1981a). Dixon noted that grass growing in the sinkhole where the dance house used to be was powerful and especially lucky when used in the grass game, a gambling activity enjoyed by the Maidu and their mythological predecessors (Dixon 1903:33–118).

Somewhere between the top edge of Soda Rock and where the Wasam women's dance house (sinkhole) used to be was a small spring with a pool (about two feet in diameter). The sulfur water that emanated from this pool was said to smell like urine, and is believed to have been an effective medicine for kidney problems. It was one of the many medicinal pools left by Creator for the people (USDA, FS, PNF 1981b). Another consultant remembered being told that travelers threw valuables into the spring for luck and as a kind of homage (USDA, FS, LNF 1981).

Today, elders remember that the mineral waters that once flowed through the travertine pools were used for healing. They want the waters to continue to flow. They want to be able to collect the salt grass again and to pass on to their children the actual earlier lifeways and not just the stories of how life used to be (TCR Field Data 1985; USDA, FS, PNF 1981a). (It must be noted that recent quarrying of the travertine deposit is thought to have halted the flow of water within the deposit, thus drying up the pools. Flows into the pools are thought not to be related to instream flows in Indian Creek.)

The fate of the propagation of the cultural practices tied to *Ch'ichuyam bam* was best summed up by a local Maidu in a declaration on Soda Rock to the Forest Service:

> It is my belief that the area called Soda Rock is important to the Northeastern Maidu's cultural and religious heritage. It is a place where *mythological events* took place. It is a place where *healing* was done. And it is a place where *salt grass* was collected. Its presence is important to our children as a *visual reminder* of their past heritage [emphasis added] [USDA, FS, PNF 1981a].

In 1982, Soda Rock was placed on the National Register of Historic Places (USDA, FS, PNF 1982). It was determined, among other things, that the area was an important source of information regarding the prehistory of the Maidu people.

> As a visual reminder of the mythic past (history) when the Creator traveled through the area preparing the land for the Maidu, it provides an empirical source from which present and future descendants may derive sufficient identity to maintain and reinforce certain values associated with their cultural heritage (education and cosmology) [USDA, FS, PNF 1982:6].

The continued importance is evidenced by the 1983 Roundhouse Council calendar, which includes a sketch depicting Soda Rock, labeled "A Sacred Maidu Site" (Roundhouse Council 1983a).

For similar reasons, other mythological sites described in this report could be treated with the same degree of significance as Soda Rock. Indian Falls and *K'ow okum pulumtum* were sites visited by Creator on the same journey, and although they were not nominated for the National Register of Historic Places, they have equal value in Maidu tradition. Contemporary Maidu continue to express their interest and concern for these sacred places. They have expressed a desire to continue the traditions practiced by their ancestors, and therefore are concerned that places of spiritual importance such as Soda Rock remain undisturbed (Indian Valley Record 1984; TCR Field Data 1985; USDA, FS, PNF 1981a).

Significance and Impacts

Soda Rock, by virtue of its religious attributes, is an important component in the Maidu belief system. Also, as noted in the National Register nomination, the preservation of the rock in its natural state and setting is important in the continuance of tradition and Maidu cultural identity. General alteration of the landscape in the vicinity of the rock (that is, construction of the sum of the project features) may be said to further alter the spiritual integrity of the site. The severity of this impact would be directly related to the nearness of any of the proposed facilities to the rock, with visual and aural changes being the critical types of impact. As now planned, the powerhouse and tailrace are to be constructed well downstream from the formation (e.g., Alternative Site No. 2), which removes the possibility of direct impacts from construction and operation. Again, reduced stream flows may, through alteration in the natural setting, diminish the spiritual significance of the rock. Other features of the site, such as the natural spring-filled bathing pools and the striking spirit manifestations seen on and near the rock, have been adversely affected by mining of the travertine deposit from which the rock is formed. It is not known if changes in local hydrology due to the proposed project will exacerbate this negative effect.

K'ow wow tay **(Village at Oak Flat, Bennett's Place [Archaeological Site Plu-58])**

This ethnographic site is located approximately one-half mile below Indian Falls on the west side of the creek. According to Riddell (1968:86-87), this site was occupied by Indians in precontact times. Another consultant remembered Bear Dances being held here in the 1930s. Native American consultants mentioned that they still visit this locale to pick apples and plums, although there are no other data concerning present-day use of the area (TCR Field Data 1985).

Significance and Impacts

This ethnographically recorded site represents a historic-period expression of traditional ceremonial practices (the Bear Dance.) There is no evidence that such observances still occur at the site, although the Bear Dance remains perhaps the most stable and significant of the comtemporary Maidu ceremonial practices (e.g., the dances at Greenville and Janesville are held on a regular basis and attract strong support from the Maidu and local non-Maidu communities.) The proposed project will not impact this site. The powerhouse as now planned will be at least 300 to 500 feet distant to the east.

Luwu humenim (Greenville "Wye" [Archaeological Site Plu-57])

This ethnographic area is located on Indian Creek off Highway 89, approximately one-fourth to one-half mile past the junction of Highways 89 and 70. There is a series of low "step" falls, visible from the highway, along this part of the creek. *Luwu* in Maidu means "fish trap." The site represents both a seasonal camp site and food resource area (Riddell 1960-74; TCR Field Data 1985). Eels were caught here both for their meat and for the oil which was rubbed onto the skin for "body aches" (Riddell 1960-74). Although these eels were caught as late as the turn of the century, they have since been eliminated as a result of the "stepladder" of dams on the Feather River.

Significance and Impacts

The primary importance of this site was the eel resource; however, since eels are no longer available, the locale is no longer used. The site also carries some significance as a known area of traditional practices during the historic period, and as such has heritage value to the Maidu community. The area will be impacted by the proposed project if the Paxton powerhouse alternative is chosen. In this case, water diverted at the dam would be returned to the creek downstream near the town of Paxton, thus reducing the flows in Indian Creek at the site *Luwu humenim*.

Paxton

According to one consultant, a spring was located near Paxton at the river "where the red dish is." The spring was not located, and no other information was obtained (TCR Field Data 1985).

MAIDU TRIBE

May 24, 1985

State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95810

In addressing the proposed Hydro-Dam Project, the Maidu Tribe express their dismay with mixed feelings.

Above and beyond all thoughts, we, as a Traditional People, need to protest this project because of the un-necessary damage it would cause, once implemented, our mythological and sacred sites. These sites, which are located in the proposed area of the dam, (Indian Falls, (Ch'iwisi) water pool located on Indian Creek and Soda Rock.) are as sacred to the Maidu people as our language, traditions, and religion. We, as a people, have stood silent as our lands were taken from us, our children put into "BIA Boarding Schools", where their language and religion was stripped from them, and yet, there was no protest. Now, that most integral part of our people our sacred site(s) is being threatened. We have no alternative, at this point but to express, as an Indian entity, the indisposable and irreplaceable damage that would result, if such a dam were allowed to be constructed.

This infringment on our sacred site may be a direct result from a lack of knowledge of our culture, or may derive from the insensitiveness of the project director, but I would hope not, and give "them" the benefit of the doubt.

I am aware of the need of Plumas County to develop and construct projects for the community to survive economically as well as traditionally, as this is also the intent of the Maidu Tribe. I would suggest then, in all respect, that if such a dam is to be constructed, it would be in a different location. Intensive study as to environmental impact and consideration of the effect on traditional and sacred sites, etc., would need to be a priority before monetary needs. In closing, may Kah-doe-yah-Rem (Earth Maker) advise you.

Respectfully Submitted,

C. J. LeCompte

C. J. LeCompte
Maidu Tribal Chairperson

CJL/fm

xc: County of Plumas
Friends of Indian Creek

Our status of having a govt. to govt. relationship terminated

* Because of BIA interference, we are now:

The Maidu Nation
P.O. Box 104
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Darlene Franco
1707 E. Douglas #H
Visalia CA 93291

Dear Sen. Inouye, July 3, 1988

My name is Darlene Franco. I am a California Indian, a member of the Wukchumni ~~tribe~~ Council of Tulare County. I am 27 years old, married and have 2 children. I have a California state roll number, My mother, Martha Tapleras, has 3 California state roll numbers, My ancestors have lived on this land for centuries. Yet, we are not recognized by the federal government as being American Indian. Therefore, our Wukchumni Council is actively seeking federal recognition. I am writing today to express my concerns on the new Indian Health Service eligibility requirements.

Under these new rules, I will no longer be eligible for services, nor will any of my family members. I used to be a Community Health Aide (CHA) for our area, and I know how much our people need these services. I do not understand why we are slowly being phased out of all Indian programs. I feel that we should have all rights as any other American Indian.

I ask for your support to try to keep IHS requirements the same as they stand now. Or at least recognize any California Indian with a state roll number.

Thank you for your hard work, and for listening to my people.

Sincerely,

Darlene J. Franco

July 3rd 1988

To: Mr Inouye

I am of the Wukchomi Council, an Elder that needs to have medication for Diabetes and high blood pressure. I work, but, I really cannot afford to buy my medication. All of my family uses the Clinic in Visalia, California, Tulare County. What are we supposed to do when this clinic is closed to us? There was a time two months ago when my older sister fell and broke her wrist. We heard the clinic would not be caring for us any longer unless we payed for our visit to the clinic, so my sister just didn't get her wrist attended to. Now months later she still cannot use her hand without because it hurts and she still goes to work with this very painfull wrist. She should be all healed by now if she hadn't heard our clinic would not care for us Indians because we were not federally recognized. Where are we to turn if our clinic is closed to us people who cannot afford to pay for clinic visits? Our children will need dental work and eye corrections. Where will families take these children

When they need these things taken care of?
I support the S 139 - Health Care improvement act
and oppose the final ruling.

Sincerely

Marie Wilcox

Secretary of Wukchumni
Council - Of Tulare County
Ussalia, California
address. 36787 Rd 197
Woodlake, Ca. 93286
Ph (209) 564-8602

Consolidated Tribal Health Project, Inc.

564 South Dora, Suite D Ukiah, California 95482

(707) 462-0488

RESOLUTION

A RESOLUTION TO WITHDRAW THE 42 CFR PART 3.6 INDIAN HEALTH SERVICE: FINAL RULE.

WHEREAS, Consolidated Tribal Health Project is a Tribal Organization as defined under 42 CFR 36.204 (h) and represents seven (7) federally recognized tribes in Mendocino County, excluding Round Valley, and;

WHEREAS, The Board of Directors of Consolidated Tribal Health Project is supporting the following policy statement on eligibility:

ELIGIBILITY

There is a consensus of opinion in California that all Indians of California should continue to be eligible for both direct and contract health care services. Indians of California is used as defined in the policy memo of May 7, 1986, by Dr. Rhoades, as all Indians who were residing in the State of California on June 1, 1852 and their descendants now residing in the State. National acceptance of this position as in the McCain amendment to SB 129 the Indian Health Care Improvement Act reauthorization Bill in no way expands the classes of Indians being served in California.

- Any National legislation or eligibility for IHS services must contain language that specifically maintains services for Indians of California.
- Any legislation on eligibility must include language requiring consultation with the relevant tribes and Indian health funded projects as to the designation of health services delivery areas.
- All Indians residing in a health service delivery area should have equal access to IHS resources, and

FINALLY BE IT RESOLVED, Consolidated Tribal Health Project is in full support of the tribes at the Nashville 88 Meeting held on May 3-6, 1988, to withdraw the 42 CFR Part 36 Indian Health Service; Final Rule and to stay with the existing eligibility regulations under 42 CFR 36.12 and sub Part C - Contract Health Services.

Resolution to Withdraw
CFR 42 Part 3.6

CERTIFICATION

The Board of Directors of Consolidated Tribal Health Project, Inc., does hereby certify that a meeting duly called, notice and convened on the 25th day of May 1988, where a quorum of 9 was present, this resolution was duly adopted by a vote of 9 ayes, 0 nays, 0 abstentions, and said resolution has not been recinded or amended in any way.

Paul Allen, Chairman — Date: Jun 9/88

Donalea Brown, Secretary — Date: June 16, 1988

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

RECEIVED

Memorandum

Date MAY 7 1986

MAY 12 3 10 PM '86

From Director, Indian Health Service

CALIFORNIA PROGRAM OFFICE/SACRAMENTO

Subject Indian Eligibility in California

To T.J. Harwood
Director, California Program Office
Indian Health Service

ISSUE

For sometime now there has been a great deal of confusion and controversy over the question of which California Indians are eligible for Indian Health Service (IHS) funded services. Much of the controversy appears to be focused on the views of different factions of California Indians to prove that only they are eligible for one or another of the IHS programs. This has proven to be, as I am sure you are well aware, very devisive to the California Indian community and to the California Program Office.

PURPOSE

The purpose of this memorandum is to confirm how the current IHS eligibility requirements apply to California. There is much speculation that new eligibility requirements will be issued. When and if this takes place, the situation in California will have to be reevaluated in light of any new requirements. In the meantime, however, we must continue to abide by current laws and regulations and current laws and regulations do not establish a single eligibility criteria for IHS services or even a single basis for providing services to Indian communities.

DISCUSSION

Your April 11, 1985, letter to the Administrators of the various California Indian health programs basically restates the requirements of the Contract Health Service (CHS) regulations (42 CFR 36 Subpart C) which have been fully applicable to California since they were issued in 1978. Though basically correct, the problem with the April 11 letter is that it leaves the reader with the mistaken impression that the eligibility requirements in the CHS regulations are the only basis for determining which Indians Congress has directed the IHS to provide services.

Your recognition of the problem caused by too narrow a reading of the April 11 letter is demonstrated by your December 27 memorandum in which you express your agreement that what is needed is an approach which will preserve both the integrity of the CHS regulations and maintain our current responsibilities to California Indians.

I concur with your analysis and that of my staff that: (1) the CHS regulations are in full effect in California and have been since they were issued in 1978; (2) Indians can obtain services at IHS expense from providers serving the general public on basis other than the CHS regulations; and (3) the mere use of a contract instrument does not, in and of itself, result in all services flowing from that contract being governed by the CHS regulations.

It has previously been determined by the Office of the General Counsel (OGC) that, notwithstanding the funding of clinical operations in California through various contract mechanisms, the direct provision of care in these clinics are not governed by the on or near regulation, i.e., the CHS regulations at 42 CFR 36 Subpart C. However, though the OGC understanding that health services purchased by IHS from providers servicing the general public follow the CHS regulations for eligibility purposes is generally correct, the regulations are not applicable in all situations. Exceptions exist where the basis for serving the population was other than "on or near". Such a condition exists in a number of places including California. In all places where IHS or IHS contractors provide services through providers servicing the general public, we use the CHS regulations to the extent feasible, e.g., for authorizing, prioritizing and appeals processes, but not necessarily for eligibility purposes. Eligibility, or the funded scope of a particular program, may be determined by specific Congressional action.

Though most funds appropriated by the Congress for Indian health services are for Snyder Act Indians who reside "on or near" a reservation, Congress does from time to time direct the IHS to provide services to communities of Snyder Act Indians who are not "on or near" a reservation. Examples of such Congressional action include the Indian populations at Haskell, Rapid City, selected urban areas, and Maverick County, Texas (members of the Kickapoo Band of Texas only).

Congress took similar action in regards to California when it provided funding for the California Rural Indian Health Board (CRIHB) in the fiscal year 1973 appropriation (Tab A). Similar action was taken in fiscal year 1974 (Tab B). The appropriation was to IHS and not CRIHB (see OGC opinion at Tab C). Therefore, the California Indian population that IHS was given responsibility for consisted of California Indians served by and residing in the CRIHB catchment areas at the time of the specific Congressional directives. The method of providing services, i.e., direct or through providers serving the general population, was not specified and was not limited to those Indians living "on or near" a reservation.

Your recent research of CPO records to determine what California Counties were served by CRIHB in 1973 identified 35 counties (Tab D). At Tab E there is a chart showing: Column-1, the California counties that are in a Contract Health Service Delivery Area (CHSDA); Column-2, counties in an IHS Service Area (SA); and Column-3, counties in a 1973 CRIHB catchment area. All 35 counties are in a CHSDA or an SA and, in most cases, both.

It should be kept in mind that Congress, in dealing with California Indians, has at times established two classes of such Indians. The first of these

are term "Indians of California" and are defined as "all Indians who were residing in the State of California on June 1, 1852, and their descendants now living in said State". The second group is "Indians in California" made up of all Indians that do not meet the "Indians of California" definition. It has been our assumption that CRIHB was established to serve "Indians of California", both tribal and non-tribal. Based on this assumption and notwithstanding the later issuance of the CHS regulations, certain Snyder Act "Indians of California" have been considered eligible for IHS or IHS funded services whether provided directly or by a provider serving the general public.

DECISION

Therefore, based on the 1973 Congressional action providing funds for CRIHB, Indians living in the 35 CRIHB counties do not need to meet the CHS eligibility regulations if they qualify as "Indians of California". All Indians living in CHSDA counties that are not also CRIHB counties may obtain indirect services only if they meet the requirements of the CHS regulations. Indians who do not qualify as "Indians of California" must meet the CHS regulations. All Indians must, of course, meet the basic eligibility requirements of 42 CFR 36.12 which, I should point out, do not require tribal membership.

It is important when services other than direct are provided in California, that the basis for eligibility be clearly determined and recorded, i.e., whether the individual is eligible under the CHS regulations and/or under the 1973/74 Congressional action.

It should again be emphasized that any change in the current eligibility regulations could result in changes in the California eligibility situation. Also, it should be noted that certain proposed provisions contained in the P.L. 94-437 reauthorization bills (sample at Tab F) would replace the current situation with specific legislation defining California Indians and establishing a single CHSDA. All eligible Indians within such a legislatively mandated CHSDA would be required to meet the CHS regulations.

The above decision on eligibility does not apply to eligibility for Title V Urban or Alcoholism programs each of which has a separate legislative eligibility requirement that is broader than the basic IHS eligibility requirements found at 42 CFR 36.12.

Everett R. Rhoades, M.D.
Assistant Surgeon General

Attachments
Tab A - FY 1973 Congressional Action
Tab B - FY 1974 Congressional Action
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Tab D - CPO: CRIHB Counties in 1973
Tab E - California County Status Chart
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[FULL COMMITTEE PRINT]

NOTICE.—This report is given out subject to release when consideration of the bill which it accompanies has been completed by the full committee. Please check on such action before release in order to be advised of any changes.

92D CONGRESS, 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 92-[illegible]

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1973

JUNE 8, 1972.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. HANSEN of Washington, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. ——]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for the Department of the Interior and related agencies for the fiscal year 1973. The bill provides regular annual appropriations for the Department of the Interior (except Bonneville Power Administration, Bureau of Reclamation, Southeastern Power Administration, Southwestern Power Administration, and Alaska Power Administration) and for other related agencies including the U.S. Forest Service.

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Activity	Committee bill, 1973	Bill compared with—	
		1972 appropriation	Estimate, 1973
Patient care	$115,956,000	+17,763,000	+[illegible]
Field health services	30,441,000	+5,316,000	+[illegible]
Administration	3,429,000	+475,000	
Total, Indian health services	163,787,000	+14,434,000	+3,247,000

The increase of $3,247,000 over the budget estimate includes the following:

+$1,000,000—Additional funding for the Contract Health Care program.

+$1,000,000—Implementation of three additional pilot urban health projects ($450,000); and $550,000 for expansion of services provided by the California Indian Rural Health Board.

+$400,000—Six additional positions and support costs for additional eye care.

+$350,000—Additional treatment of Otitis Media.

+$250,000—Fourteen additional positions for dental services in the Aberdeen and Billings areas.

+$247,000—Fifty additional community health representatives.

INDIAN HEALTH FACILITIES

Appropriation, 1972	$30,442,000
Estimate, 1973	43,[illegible]
Recommended, 1973	44,0[illegible]
Comparison:	
Appropriation, 1972	+13,657,000
Estimate, 1973	+410,000

The recommended increase of $410,000 over the budget estimate will provide $60,000 for preliminary planning, Gila River Hospital, Arizona; and $350,000 for planning and design, White River Apache Mountain Hospital, Arizona.

Indian Claims Commission

SALARIES AND EXPENSES

Appropriation, 1972	$1,045,000
Estimate, 1973	1,090,000
Recommended, 1973	1,090,000
Comparison:	
Appropriation, 1972	+45,000
Estimate, 1973	

The Committee recommends an appropriation of $1,090,000, the budget estimate, for the Indian Claims Commission.

National Capital Planning Commission

SALARIES AND EXPENSES

Appropriation, 1972	$1,[illegible]
Estimate, 1973	1,[illegible]
Recommended, 1973	1,[illegible]
Comparison:	
Appropriation, 1972	[illegible]
Estimate, 1973	[illegible]

Calendar No. 881

92d Congress, 2d Session } SENATE { Report No. 92-921

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1973

June 28, 1972.—Ordered to be printed

Mr. Bible, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. 15418]

The Committee on Appropriations, to which was referred the bill (H.R. 15418) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1973, and for other purposes, reports the same to the Senate with various amendments and presents herewith information relative to the changes recommended:

Amount of budget estimates, 1973	$2,756,520,000
Bill as passed by the House	2,744,468,200
Increases over House bill recommended by committee	29,014,600
Total of bill as reported	2,773,482,800
Appropriations, 1972	2,650,777,035
Bill as reported to the Senate:	
Over budget estimates, 1973	16,962,800
Over appropriations, 1972	122,705,765

Summary of Bill

Estimates totaling $2,756,520,000, which includes new obligational authority and amounts necessary to liquidate contract authorization, were considered by the Committee for the programs and activities of the agencies and bureaus of the Department of the Interior—except the Alaska Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, the Bonneville Power Administration, the Bureau of Reclamation, and research on

Activity	Budget estimate	House allowance	Committee recommendation
Patient medical care	$114,005,000	$115,926,000	$112,005,000
Field health services	49,114,000	50,461,000	51,972,000
Administration	3,420,000	3,420,000	3,420,000
Total	166,540,000	169,737,000	173,393,000

The Committee's recommendation includes the following unbudgeted sums:

$1,000,000—Additional funding for the Contract Health Care program.

$1,550,000—Implementation of three additional pilot urban health projects ($450,000); and $1,100,000 for expansion of services provided by the California Indian Rural Health Board.

$400,000—Six additional positions and support costs for additional eye care.

$350,000—Additional treatment of Otitis Media.

$247,000—Fifty additional community health representatives.

$605,000—Dental services in the Aberdeen and Billings areas ($250,000) and in Alaska ($355,000).

$456,000—Health clinics in Alaskan villages.

$300,000—Health care communications in Alaska.

$600,000—Indian mental health program.

$350,000—Additional service at the Public Health Service facility, Belcourt, North Dakota.

$1,000,000—Additional positions for ambulatory [illegible]

INDIAN HEALTH FACILITIES

Appropriation, 1972	$30,442,000
Budget estimate, 1973	43,689,000
House allowance	[illegible],000
Committee recommendation	44,549,000

The Committee recommends an appropriation of $44,549,000 for construction of hospitals and clinics and sanitation facilities. This is $450,000 more than the House allowance and $860,000 over the budget estimate.

The Committee's recommendation includes increases over the budget as follows:

$60,000—Preliminary planning, Gila River Hospital, Arizona.

$350,000—Planning and design, White River Apache Mountain Hospital, Arizona.

$350,000—Design drawings, Shiprock Comprehensive health unit, New Mexico.

$100,000—Additional amount for participation in construction of community hospital, Fairbanks, Alaska (P.L. 85-151).

The Congress has approved planning funds for several hospitals on which planning has been delayed and is not yet complete. The Committee expects that planning will be done promptly; and that construction funds for these facilities, including the Zuni hospital for which planning funds were provided in fiscal year 1971, will be included in the next supplemental appropriation request.

93d Congress, 1st Session | HOUSE OF REPRESENTATIVES | Report No. 93-512

DEPARTMENT OF INTERIOR APPROPRIATION BILL, 1974

September 17, 1973.—Ordered to be printed

Mr. HANSEN, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 8917]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8917) "making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1974, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 22, 26, 27, 28, 31, 33, and 43.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 10, 11, 20, 23, 24b and 49, and agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert $70,000,000; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert $150,000,000; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert $33,035,000; and the Senate agree to the same.

ton Recreation Area, Nev.; $130,000 for Angel Lake, Nev.; $315,000 for Eagle Lake Dam, W. Va.; $25,000 for Lake of the Clouds, W. Va.; $404,000 for Flaming Gorge National Recreation Area, Wyo.; $600,000 for Princeton, W. Va.; and $125,000 for Charleston, S.C.

Amendment No. 33: Deletes language providing $500,000 for scientific activities overseas (special foreign currency program) as proposed by the Senate.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate of a technical nature.

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language which prohibits moving or closing any regional office for research, State and private forestry, and National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the Committee on Appropriations and Committee on Agriculture and Forestry in the U.S. Senate and U.S. House of Representatives.

The managers are deeply disturbed over the arbitrary manner in which the Agriculture Department and OMB have impounded all Congressional additions to the Forest Service budget. They direct that this practice of rejecting congressional priorities without regard to merit or need be discontinued immediately.

Department of Health, Education, and Welfare

Health Services and Mental Health Administration

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $184,283,000 for Indian health services instead of $181,118,000 as proposed by the House and $182,803,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The increase over the amount proposed by the House includes additions of $165,000 to continue leasing of health clinics in Alaskan villages; $2,000,000 for ambulatory care, including $1,200,000 for patient care and $800,000 for field health; $500,000 for tribal health program development; and reductions of $1,500,000 for California Rural Indian Health Board; $250,000 for mental health care; $500,000 for pilot urban Indian health projects using the model of the Minneapolis Indian Health Board; and $250,000 for an additional 150 community health representatives.

Amendment No. 37: Appropriates $49,027,000 for Indian health facilities instead of $46,027,000 as proposed by the House and $50,107,000 as proposed by the Senate. The increase over the amount proposed by the House includes $3,000,000 for construction of the Owyhee Indian Hospital, Nevada; $600,000 for planning a new health facility, Bethel, Alaska; and $100,000 for designing an Indian health clinic, Chemawa Indian School, Oregon.

93d Congress, 1st Session } HOUSE OF REPRESENTATIVES { Report No. 93-322

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1974

JUNE 22, 1973.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HANSEN of Washington, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. 8917]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for the Department of the Interior and related agencies for the fiscal year 1974. The bill provides regular annual appropriations for the Department of the Interior (except Bonneville Power Administration, Bureau of Reclamation, Southeastern Power Administration, Southwestern Power Administration, Alaska Power Administration, and Underground Electric Power Transmission Research) and for other related agencies, including the U.S. Forest Service.

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The amount recommended by the Committee compared with the 1973 appropriation and the 1974 budget estimate by activity is as follows:

Activity	Committee bill, 1974	Bill compared with—	
		1973 Appropriation	Estimate, 1974
Patient care	$174,293,000	+37,132,000	+34,150,000
Field health services	55,701,000	+4,134,000	+3,250,000
Administration	3,524,000	+104,000	
Total, Indian health services	184,118,000	+11,370,000	+7,110,000

The increase of $7,150,000 over the budget estimate includes the following:

+$500,000—Mental health care.

+$100,000—Medical care program, Ute Mountain Tribe, Colorado.

+$500,000—Health Centers at Hugo, McAlester, and Eufaula, Oklahoma, including 51 additional positions.

+$300,000—Dental care, including programs for the Crow Tribe, Montana and the Small Tribes Organization of Western Washington.

+$2,000,000—California Rural Indian Health Board, including funds for a medical care program of the Hoopa Valley Tribe, California.

+$1,000,000—Pilot urban Indian Health projects using the model of the Minneapolis Indian Health Board.

+$750,000—Additional 150 community health representatives.

+$2,000,000—Contract health care, including the Navajo Tribe, Arizona.

INDIAN HEALTH FACILITIES

Appropriation, 1973	$44,549,000
Estimate, 1974	41,717,000
Recommended, 1974	46,027,000
Comparison:	
Appropriation, 1973	+1,478,000
Estimate, 1974	+4,310,000

The recommended increase of $4,310,000 over the budget estimate will provide for the first phase construction of a replacement facility for the Philadelphia Indian Hospital, Philadelphia, Mississippi.

The Committee urges that the budget authorities present to Congress next year construction and maintenance budgets commensurate with the needs in this area.

INDIAN CLAIMS COMMISSION

SALARIES AND EXPENSES

Appropriation, 1973	$1,075,000
Estimate, 1974	1,086,000
Recommended, 1974	1,086,000
Comparison:	
Appropriation, 1973	+11,000
Estimate, 1974	

The Committee recommends an appropriation of $1,086,000, the budget estimate, for the Indian Claims Commission.

Calendar No. 342

93d Congress, 1st Session } SENATE { Report No. 93-352

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1974

July 31, 1973.—Ordered to be printed

Mr. Bible, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. 9117]

The Committee on Appropriations, to which was referred the bill (H.R. 9117) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1974, and for other purposes, reports the same to the Senate with various amendments and presents herewith information relative to the changes recommended:

Amount of budget estimates, 1974	$2,575,667,300
Bill as passed by the House	2,460,734,200
Increases over House bill recommended by committee	219,069,500
Total of bill as reported	2,679,823,700
Appropriations, 1973	2,861,456,300
Bill as reported to the Senate:	
Over budget estimates, 1974	104,156,400
Under appropriations, 1973	—181,632,600

Summary of Bill

Estimates totaling $2,575,667,300, which include new obligational authority and amounts necessary to liquidate contract authorization, were considered by the Committee for the programs and activities of the agencies and bureaus of the Department of the Interior—except the Alaska Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, the Bonneville

*(Star Print) 39-010

$250,000—Mental health.

$450,000—California Rural Indian Health Board.

$500,000—Tribal health program development.

Within the expanded programs of contract and ambulatory health care, the Committee expects the Indian Health Service to continue the FY 1973 increases for eye care and treatment of otitis media, for expanded dental services in the Aberdeen and Billings area, and for services at Belcourt, North Dakota.

The increased program will also include the following additional services:

Dental care, Wind River Reservation, Wyoming.

Support for the development of Native health corporations in Bristol Bay, Kodiak, the Aleutian Chain, Tanana Chiefs area, and the Arctic Slope region.

Implementation of a comprehensive environmental health program, Norton Sound Health Corporation, Alaska.

Employment of two additional physicians within the Norton Sound region, Alaska.

The Committee has also approved additional appropriations of $165,000 to continue the leasing of health clinics in Alaskan villages and $500,000 for health centers at Hugo, McAlester and Eufaula, Oklahoma.

The Department is commended for its decision to obligate the additional funds provided by Congress in FY 1973 following the refusal of Congress to rescind them. The Committee has been assured that all the $6,203,000 involved in the rescission proposal will be obligated.

INDIAN HEALTH FACILITIES

Appropriation, 1973	$44,349,000
Budget estimate, 1974	41,717,000
House allowance	46,027,000
Committee recommendation	50,107,000

The Committee recommends an appropriation of $50,107,000, increasing the budget estimate by $8,390,000. The recommendation is $4,080,000 higher than the House allowance. Increases are detailed below.

$3,200,000—For construction of the Owyhee Indian Hospital, Nevada.

$4,310,000—For construction of an Indian hospital at Philadelphia, Mississippi.

$280,000—For expansion of the Arapahoe Health Clinic, Wind River Reservation, Wyoming.

$600,000—To initiate planning for the construction of a new Indian health facility at Bethel, Alaska.

$100,000—For an Indian health clinic, Chemawa Indian School, Oregon.

OFFICE OF EDUCATION

INDIAN EDUCATION ACT

Appropriation, 1973	$18,000,000
Budget estimate, 1974	
House allowance	
Committee recommendation	65,000,000

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND
OFFICE OF THE SECRETARY
OFFICE OF THE GENERAL COUNSEL

TO : Mr. James Danielson
Director
P.L. 93-638 Project

DATE: NOV 26 1976

FROM : Sidney Edelman S. Edelman
Assistant General Counsel
for Public Health

SUBJECT: IHS--P.L. 93-638--Contracting For Portions of the Califor Rural Indian Health Board (CRIHB) Program--G.C. Ref.: 76-3347

This is in response to your memorandum of September 1976 requesting our opinion whether the IHS, under sectio 103(a) of P.L. 93-638 (The Indian Self-Determination Act) is required to contract with an Indian tribe served by th California Rural Indian Health Board (CRIHB) to provide t services presently provided by the CRIHB; or whether the identification of funds for services provided by CRIHB in various appropriation committee reports overrides the command of section 103(a).

As we understand the underlying facts, the Californi Rural Indian Health Board (CRIHB) is a California non-pro corporation organized by Indians in California to plan an coordinate a health program for rural Indians in that Sta The CRIHB serves as an umbrella organization for 16 rural health projects. The CRIHB regular membership consists o representatives from each of the rural health projects, 1 and the regular membership at any given time also constitutes the CRIHB board of directors. 2/ Representatives f each project are chosen by the Indians served in the proj area. 3/ CRIHB projects provide community health and outreach services as well as dental and medical services with IHS support.

1/ Article III of CRIHB bylaws. In addition to the regular members, the Director of the State Department of Public Health and the Director of the IHS Sacramen Field Office are ex-officio, non-voting members.

2/ Article VIII of the CRIHB bylaws.

3/ As we understand the process, project boards are elected by the Indians in the area served by the proj Each project board in turn elects two representatives serve on the CRIHB board.

Section 103(a) of P.L. 93-638 directs the Secretary, upon the request of any Indian tribe, to enter into a con tract or contracts with any tribal organization of that tribe to "carry out any or all of his functions, authorities, and responsibilities" under the Act of August 5, 1954 (42 U.S.C. 2001 et seq.). The Act of August 5, 1954 referred to in section 103(a) transferred to the Secretar of HEW all the functions, responsibilities, authorities a duties of the Department of the Interior related to the maintenance and operation of hospital and health faciliti for Indians and the conservation of the health of Indians.

The Indian Health Service contract with the CRIHB is and has been funded under appropriations to the Indian Health Service to carry out the Act of August 5, 1954. Th current appropriation for FY 1977, quoted in pertinent par as follows, is representative of appropriation acts since 1970, with exception of the reference to P.L. 93-638:

> Indian Health Services
>
> For expenses, not otherwise provided for, necessary to cary out the Act of August 5, 1954 (68 Stat. 674), Public Law 93-638, and titles III and V of the Public Health Service Act, including hire of passenger motor vehicles and aircraft, purchase of reprints; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, $337,422,000. 4/

4/ P.L. 94-373, Making appropriations for the Departmen of the Interior and related agencies for the fiscal year ending September 30, 1977. Titles III and V of the Public Health Service Act are not pertinent here

We note that CRIHB has not been mentioned in any appropriation act since 1970, which you mention in your memorandum is the approximate time California Indians wer brought back within the scope of the Indian Health Servic program. Nor are funds identified for services provided CRIHB in appropriation committee reports for FY 1976 or F 1977. In certain past years, such reports have identifie funds for CRIHB services. 5/ However we do not view iden fication of funds in past years in appropriation committee reports as having any legal significance for the current appropriation. We might add that even for the yea in question, identification of funds for services provided by CRIHB in appropriation committee reports in our view do not impose any legal requirement that only that organizati could be used to provide the services. In our view, such identification is most reasonably interpreted as indicatin only an intent to support services for rural California Indians and the reference to CRIHB is descriptive of the services funded rather than a restriction on the instrumentality which could be used to provide the services.

Section 103(a) of P.L. 93-638 is an explicit directio that the Secretary contract with a tribal organization of any requesting tribe unless he makes one or more of the findings specified in that section. Clearly the current appropriation to carry out the Act of August 5, 1954 is available for contracts under section 103(a). As the CRIH contract is funded from such appropriation and as we find legal impediment to a section 103(a) contract in pertinent appropriations acts or their legislative history, we conclude there is no legal barrier to the Indian Health Servi contracting with a tribal organization of a requesting tri to carry out all or a portion of the services provided by the CRIHB.

. . . . . .

5/ Senate Report No. 92-921, 92d Cong., 2d Sess., Depart of the Interior and Related Agencies Appropriation Bill, 1973 at p. 25 specifies an additional $1,000,00 for CRIHB in that year. House Report No. 93-512, 93d Cong., 1st Sess., Department of the Interior Appropri Bill, 1974 at p. 11 specifies an additional $500,000 CRIHB.

DEPARTMENT OF HEALTH & HUMAN SERVICES

TAB-D

Indian Health Service
California Program Office

Memorandum

Date: August 21, 1985

From: Lead, Health Systems Specialist, Program Operations Branch, PDIE, IHS CPO

Subject: TRIBES SERVED BY CRIEB IN 1973, INCLUDING GEOGRAPHICAL AREA (COUNTIES AND RESERVATIONS), AND MEMBER HEALTH PROGRAMS

To: Director, IHS CPO

HEALTH PROGRAMS	TRIBES	COUNTY
Eupa Health Association	Hoopa Valley Reservation	Humboldt
Shasta/Trinity/Siskiyou Project	Big Bend Rancheria	Shasta
	Karok	Siskiyou
Modoc/Lassen Project	Alturas Rancheria	Modoc
	Cedarville Rancheria	Modoc
	Likely Rancheria	Modoc
	Lookout Rancheria	Modoc
	Fort Bidwell Reservation	[illegible]
	Susanville Rancheria	[illegible]
	Montgomery Creek Rancheria	[illegible]
	Roaring Creek [illegible]	[illegible]
	X-L Ranch	[illegible]
United Indian Health Service	Resighini Rancheria	Del Nort
	Smith River Rancheria	Del Nort
	Table Bluff Rancheria	Humboldt
	Trinidad Rancheria	Humboldt
	Rohnerville Rancheria	Humboldt
	Yurok (Hoopa Extension)	Humboldt
Round Valley Indian Health	Round Valley Indian Reservation	Mendocin
Clearlake Indian Health Program	Lower Lake Rancheria	Lake
	Middletown Rancheria	Lake
	Robinson Rancheria	Lake
	Scotts Valley Rancheria	Lake
	Sulphur Bank (Elem) Rancheria	Lake
	Upper Lake Rancheria	Lake
Sonoma County Indian Health Program	Cloverdale Rancheria	Sonoma
	Dry Creek Rancheria	Sonoma
	Lytton Rancheria	Sonoma
	Stewarts Point Rancheria	Sonoma

HEALTH PROGRAMS	TRIBES	COUNTY
Northern Valley Indian Health Program	Grindstone Rancheria	Glenn
	Berry Creek Rancheria	Butte
	Enterprise Rancheria	Butte
	Colusa Rancheria	Colusa
	Cortina Rancheria	Colusa
	Greenville Rancheria	Plumas
	Strawberry	Yuba
	Rumsey Rancheria	Yolo
	Non-Reservation Area	Tehama
	Non-Reservation Area	Sutter
Mendocino County Indian Health Program	Coyote Valley Rancheria	Mendocin
	Hopland Rancheria	Mendocin
	Laytonville Rancheria	Mendocin
	Manchester/Point Arena	Mendocin
	Potter Valley Rancheria	Mendocin
	Redwood Valley Rancheria	Mendocin
	Sherwood Valley Rancheri	Mendocin
Auburn Indian Health Program (Northern Sierra)	Shingle Springs Rancheria	El Dorad
	Non-Reservation Area	Nevada
	Non-Reservation Area	[illegible]
	Non-Reservation Area	[illegible]
Tule River Indian Health Program	Tule River Indian Reservation	[illegible]
Tuolumne Indian Health Porgram (California Rural Indian Health Project)	Tuolumne Rancheria	Tuolumne
	Jackson Rancheria	Amador
	Chicken Rancheria	Tuolumne
	Non-Reservation Area	Mariposa
	Non-Reservation Area	Calavera
Central Valley Indian Health Program (Central California Indian Health Program)	Big Sandy Rancheria	Fresno
	Table Mountain Rancheria	Fresno
	Cold Springs Rancheria	Fresno
	Santa Rosa Rancheria	Kings
	Picayune	Madera
Toiyabe Indian Health Program (Tri-County-Owens Valley)	Bridgeport Colony	Mono
	Bishop Reservation	Inyo
	Big Pine Reservation	Inyo
	Fort Independence	[illegible]
	Lone Pine Reservation	Inyo
	Benton Reservation	Mono

Page 3 - Memo to Director - 8/21/85

HEALTH PROGRAMS	TRIBES	COUNTY
Riverside/San Bernardino Health Program (Morongo-Soboba Health)	Torres-Martinez Reservation	Imperia.
	Agua Caliente Reservation	Riversi:
	Augustine Reservation	Riversic
	Cabazon Reservation	Riversic
	Cahuilla Reservation	Riversid
	Morongo Reservation	Riversid
	Pechanga Reservation	Riversid
	Ramona Reservation	Riversid
	Santa Rosa Reservation	Riversid
	Soboba Reservation	Riversid
	San Manuel Reservation	San Bern.
	Twenty-Nine Palms Reservation	San Bern.
Indian Health Council Program (California Rual Health Program)	Barona Reservation	San Diego
	Campo Reservation	San Diego
	Capiten Grande Reservation	San Diego
	Cuyapaipe Reservation	San Diego
	Inaja-Cosmit Reservation	San Diego
	La Jolla Reservation	San Diego
	La Posta Reservation	San Diego
	Los Coyotes Reservation	San Diego
	Manzanita Reservation	San Diego
	Mesa Grande Reservation	San Diego
	Pala Reservation	San Diego
	Rincon Reservation	San Diego
	San Pasqual Reservation	San Diego
	Santa Ysabel Reservation	San Diego
	Sycuan Reservation	San Diego
	Viejas Reservation	San Diego
	Pauma-Yuima Reservation	San Diego

CRIEB had a total of 15 health programs initially. These health programs provided health care to 89 tribes located in 33 counties. CRIEB's programs also provided health care to seven (7) non-reservation areas located in Tehama, Sutter, Nevada, Placer, Sierra, ~~Mariposa~~ and Calaveras counties.

40 counties

35 co

Kenneth E. Jamison

Kenneth E. Jamison

Per Jamison 35 is the co Oper.

DEPARTMENT OF HEALTH & HUMAN SERVICES

Indian Health Service
California Program Office

Memorandum

Date February 28, 1986

From Special Assistant to the Director
IHS/California Program Office

Subject Tribes Served by CRIHB in 1973, Including Geographical Area (Counties & Reservations)

To Chief, Legislation/Regulations Branch
Office of Planning, Evaluation & Legislation
Indian Health Service

Reference your February 25, 1986 telephone inquiry about subject memo dated August 21, 1985. Trinity county was served by CRIHB in 1973, but this was a non-reservation area. Subject memorandum should be corrected. This information was verified by the Contract Health Care Officer, Mr. Kenneth Jamison.

C. Allan Beckwith

C. Allan Beckwith

TAB-E

FORM BC-125 | CALIFORNIA (Code 06) | U.S. DEPARTMENT OF COMMERCE BUREAU OF THE CENSUS | Page 1 of 2

Title / Column	#1	#2	#3	#4		
COUNTY Number of counties, 58	CHSDA	SERVICE AREA	1973 CRIHB CATCHMENT AREA	S-277 HR 1926 CHSDA		
001 Alameda						
003 Alpine	X	X	174	X		
005 Amador	X	X	X	X		
007 Butte	X	X	X	X		
009 Calaveras	X	X	X	X		
011 Colusa	X	X	X	X		
013 Contra Costa						
015 Del Norte	X	X	X	X		
017 El Dorado	X	X	X	X		
019 Fresno	X	X	X	X		
021 Glenn	X	X	X	X		
023 Humboldt	X	X	X	X		
025 Imperial	X	X	X	X		
027 Inyo	X	X	X	X		
029 Kern				X		
031 Kings		X	X	X		
033 Lake	X	X	X	X		
035 Lassen	X	X	X	X		
037 Los Angeles						
039 Madera		X	X	X		
041 Marin						
043 Mariposa		X	X	X		
045 Mendocino	X	X	X	X		
047 Merced				X		
049 Modoc	X	X	X	X		
051 Mono	X	X	X	X		
053 Monterey				X		
055 Napa				X		
057 Nevada		X	X	X		
059 Orange						
061 Placer		X	X	X		

(1-2: California)

CALIFORNIA - Con.					Page
COUNTY	CHSDA COUNTIES	SERVICE AREA	1973 CRIVB CATCHMENT AREA	S.277 HR 1406 CHSDA	
063 Plumas		X	X	X	
065 Riverside	X	X	X	X	
067 Sacramento					
069 San Benito				X	
071 San Bernardino	X	X	X	X	
073 San Diego	X	X	X	X	
075 San Francisco					
077 San Joaquin				X	
079 San Luis Obispo				X	
081 San Mateo					
083 Santa Barbara	X	X	153	X	
085 Santa Clara					
087 Santa Cruz				X	
089 Shasta	X	X	X	X	
091 Sierra		X	X	X	
093 Siskiyou		X	X	X	
095 Solano				X	
097 Sonoma	X	X	X	X	
099 Stanislaus				X	
101 Sutter		X	X	X	
103 Tehama		X	X	X	
105 Trinity		X	X 507	X	
107 Tulare	X	X	X	X	
109 Tuolumne	X	X	X	X	
111 Ventura				X	
113 Yolo	X	X	X	X	
115 Yuba		X	X	X	
1985 Population	65,504	15,074	74,240	105,245	
Total Counties 56	26	38	35	49	

(2-2: California)

FORM BC-188